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6-25-02
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**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

DAVID B. CORNEAL and
SANDRA Y. CORNEAL,

Plaintiffs

v.

JACKSON TOWNSHIP,
Huntingdon County, Pennsylvania,
et al.,

Defendants

NO. 1:CV-00-1192

JURY TRIAL DEMANDED

RAMBO, J.

FILED
HARRISBURG, PA

JUN 24 2002

MARY E. DUNN, CLERK
Per *[Signature]* Deputy Clerk

**APPENDIX OF EXHIBITS
IN SUPPORT OF
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

Date: June 24, 2002

ECKERT SEAMANS CHERIN & MELLOTT, LLC
Bridget E. Montgomery, Esquire
Adam M. Shienvold, Esquire
213 Market Street
8th Floor
Harrisburg, PA 17101
717-237-6000

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Exhibit 1

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 : :
7 VS : NO. 1:CV-00-1192
8 : :
9 JACKSON TOWNSHIP, HUNTINGDON :
10 COUNTY, PENNSYLVANIA; W. :
11 THOMAS WILSON, individually :
12 and in his official capacity :
13 as Supervisor of Jackson :
14 Township; MICHAEL YODER, :
15 individually and in his :
16 official capacity as :
17 Supervisor of Jackson :
18 Township; RALPH WEILER, :
19 individually and in his :
20 official capacity as :
21 Supervisor of Jackson :
22 Township; BARRY PARKS, :
23 individually and in his :
24 official capacity as Sewage :
25 Enforcement Officer of :
26 Jackson Township; DAVID :
27 VAN DOMMELEN, individually :
28 and in his official capacity :
29 as Building Permit Officer; :
30 ANN L. WIRTH, individually :
31 and in her official capacity :
32 as Secretary of Jackson :
33 Township; and LARRY NEWTON, :
34 individually and in his :
35 official capacity as :
36 Solicitor to Jackson :
37 Township, :
38 DEFENDANTS :
39 DEPOSITION OF: W. THOMAS WILSON
40 TAKEN BY: PLAINTIFFS
41 BEFORE: TERESA K. BEAR, REPORTER
42 NOTARY PUBLIC
43 DATE: MAY 18, 2001, 8:43 A.M.
44 PLACE: ECKERT SEAMANS
45 213 MARKET STREET
46 HARRISBURG, PENNSYLVANIA

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2

1 APPEARANCES:
2 ECKERT SEAMANS
3 BY: BRIDGET E. MONTGOMERY, ESQUIRE
4 LESLIE A. MALADY, ESQUIRE
5 FOR - PLAINTIFFS
6 MAYERS, MENNIES & SHERR, LLP
7 BY: ANTHONY R. SHERR, ESQUIRE
8
9 FOR - ALL DEFENDANTS EXCEPT NEWTON
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10 ALSO PRESENT:
11 DAVID B. CORNEAL
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1 W. THOMAS WILSON, called as a witness, being
2 sworn, testified as follows:
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4 DIRECT EXAMINATION

5
6 BY MS. MONTGOMERY:
7 Q Mr. Wilson, would you state your name for the
8 record.
9 A **W. Thomas Wilson.**
10 Q I don't think we've met except briefly the
11 other day.
12 A **Yeah, just upstairs, yes.**
13 Q I'm Bridget Montgomery and I think, as you
14 know, I represent the Corneals in this case. We're here to
15 take your deposition today and ask you a -- have you ever
16 had your deposition taken before?
17 A **No.**
18 Q I'll just give you a little bit of the ground
19 rules then. I'm just going to ask you a series of questions
20 designed to get some facts. If you don't understand any
21 question, I want you to ask me to clarify it and I'll be
22 happy to do that.
23 You should feel free to take a break whenever
24 you feel that you need to. Not to confer with your counsel,
25 but if you need to go to the men's room or something like

3

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5

1 that, or if you get really tired -- sometimes these things
2 can go on for a long time and we want you to be comfortable.
3 For the court reporter's sake, you need to
4 keep your voice up. You need to speak clearly, keep your
5 voice up and let me finish my sentence and then I'll try to
6 let you finish your sentence because she can't take down two
7 people at once -- she can't take down two people talking at
8 once. She also needs you to use verbal responses.
9 A **I didn't think she could do that.**
10 **(Indicating.)**
11 Q She can't do that.
12 A **Right.**
13 Q You can't do that. So the other thing is I
14 want to make sure that there's no reason why you can't give
15 testimony today. For example, are you on any kind of
16 medication that would prevent you from understanding the
17 questions or anything like that?
18 A **None.**
19 Q Where do you live?
20 A **R.D. 1, Box 420, Petersburg, Pennsylvania.**
21 Q Is Petersburg in Jackson Township?
22 A **Yes.**
23 Q How long have you lived there?
24 A **Approximately 20 years at that location.**
25 Q Where did you live prior to that?

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|--|--|
| <p style="text-align: right;">6</p> <p>1 A I don't -- it's R.D. 1, Petersburg, but I</p> <p>2 don't know what the box -- they've changed box numbers so I</p> <p>3 don't know what it would be. Approximately three miles from</p> <p>4 where I live now.</p> <p>5 Q Also in Jackson Township?</p> <p>6 A Yes.</p> <p>7 Q And how long did you live there?</p> <p>8 A Twenty-five years.</p> <p>9 Q Have you lived in Jackson Township all your</p> <p>10 life?</p> <p>11 A Yes.</p> <p>12 Q And I don't want to be too nosey but how old</p> <p>13 are you?</p> <p>14 A Fifty-eight.</p> <p>15 Q I'm going to ask you a question about a</p> <p>16 document that's been marked before, but we'll mark it</p> <p>17 again.</p> <p>18 MS. MONTGOMERY: This is going to be Wilson</p> <p>19 Exhibit 1. I'm going to mark that and hand it to the</p> <p>20 witness.</p> <p>21 (Order produced and marked as Wilson Exhibit</p> <p>22 No. 1.)</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q Mr. Wilson, have you seen this court order</p> <p>25 before?</p> | <p style="text-align: right;">8</p> <p>1 A No.</p> <p>2 Q Did you have an opportunity to talk with any</p> <p>3 of the other defendants about their testimony?</p> <p>4 A No.</p> <p>5 Q Who did you drive down here with today?</p> <p>6 A Ann Wirth and Mike Yoder.</p> <p>7 Q So Ann Wirth came back today for these</p> <p>8 proceedings?</p> <p>9 A Yes, she knows Harrisburg. We -- so she got</p> <p>10 us into the parking garage.</p> <p>11 Q So she drove down with you today and she's</p> <p>12 going to wait all day and drive back with you today?</p> <p>13 A Yes.</p> <p>14 Q Mr. Wilson, in connection with this litigation</p> <p>15 have you performed a search for documents?</p> <p>16 A No.</p> <p>17 Q Did anybody ask you to perform a search for</p> <p>18 documents?</p> <p>19 A No.</p> <p>20 Q Do you keep any documents at your home --</p> <p>21 A No.</p> <p>22 Q -- related to -- I'm sorry, related to</p> <p>23 township business?</p> <p>24 A No.</p> <p>25 Q Have you ever seen a request for production of</p> |
| <p style="text-align: right;">7</p> <p>1 A No.</p> <p>2 Q Do you want to take a moment and look at it.</p> <p>3 A Okay.</p> <p>4 Q Do you understand the order?</p> <p>5 A Yes.</p> <p>6 Q What do you understand it to say?</p> <p>7 A I'm not supposed to talk to any of the other</p> <p>8 defendants.</p> <p>9 Q About?</p> <p>10 A This proceeding.</p> <p>11 Q About your testimony or about their testimony?</p> <p>12 A Yes.</p> <p>13 Q You're also not supposed to talk to your</p> <p>14 counsel and your counsel is not supposed to talk to you</p> <p>15 about their testimony. Do you understand that?</p> <p>16 A Right.</p> <p>17 Q Did you become aware of this order on the day</p> <p>18 it was entered, on May 16, 2001?</p> <p>19 A Yes.</p> <p>20 Q Just two days ago?</p> <p>21 A Yeah.</p> <p>22 Q Have you complied with the order to date?</p> <p>23 A Yes.</p> <p>24 Q Have you talked with any of the other</p> <p>25 defendants about their testimony?</p> | <p style="text-align: right;">9</p> <p>1 documents? Let me just show it to you. I'm not going to</p> <p>2 make this part of the record, but anybody that wants to look</p> <p>3 at it can look at it. Have you ever seen this document?</p> <p>4 MS. MONTGOMERY: Let the record reflect --</p> <p>5 THE WITNESS: I can't see quite as well as I</p> <p>6 used to.</p> <p>7 MS. MONTGOMERY: Sure. Let the record reflect</p> <p>8 I'm showing him the request for production of documents that</p> <p>9 was served upon the defendants in this case by plaintiffs.</p> <p>10 THE WITNESS: I never seen this.</p> <p>11 BY MS. MONTGOMERY:</p> <p>12 Q Did you know about it? Did you know that</p> <p>13 there was a request for production of documents outstanding</p> <p>14 in this case?</p> <p>15 A No.</p> <p>16 Q Not until this moment?</p> <p>17 A No.</p> <p>18 Q Is that a yes, not until this moment?</p> <p>19 A No, I didn't know.</p> <p>20 Q Until this very moment?</p> <p>21 A Right.</p> <p>22 Q Did Miss Wirth talk to you about the fact that</p> <p>23 she needed to gather documents in this case?</p> <p>24 A No.</p> <p>25 Q Did you bring any documents with you?</p> |

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| <p style="text-align: right;">10</p> <p>1 A No.</p> <p>2 Q Did you discuss with anybody whether you</p> <p>3 should bring any documents with you?</p> <p>4 A No.</p> <p>5 Q Did you talk to Barry Parks about whether or</p> <p>6 not he ought to bring any documents to his deposition?</p> <p>7 A No.</p> <p>8 Q Now, I'm going to represent to you that Mr.</p> <p>9 Parks testified that the supervisors told him he shouldn't</p> <p>10 bring any documents to his deposition. Do you know who told</p> <p>11 him that?</p> <p>12 A No.</p> <p>13 Q I'm going to talk to you a little bit about</p> <p>14 your educational background. What's your last -- the</p> <p>15 highest degree of education that you completed?</p> <p>16 A High school.</p> <p>17 Q Did you finish high school?</p> <p>18 A Yes.</p> <p>19 Q You attended up there in Jackson Township?</p> <p>20 A Huntingdon.</p> <p>21 Q In Huntingdon?</p> <p>22 A Yes.</p> <p>23 Q Have you had any post high school education?</p> <p>24 A Two years at Penn State in turf management,</p> <p>25 agronomy department.</p> | <p style="text-align: right;">12</p> <p>1 A No.</p> <p>2 Q How many people work for you?</p> <p>3 A Five.</p> <p>4 Q Five people other than the two of you?</p> <p>5 A Yes.</p> <p>6 Q How long have you been performing excavating</p> <p>7 work?</p> <p>8 A Twelve years.</p> <p>9 Q What did you do prior to that?</p> <p>10 A I was the golf course superintendent at the</p> <p>11 Elk's Country Club in Boalsburg.</p> <p>12 Q Boalsburg?</p> <p>13 A Yes.</p> <p>14 Q Is that in Huntingdon County?</p> <p>15 A No, Centre County.</p> <p>16 Q And how long did you hold that position?</p> <p>17 A Twenty-one years.</p> <p>18 Q So that would take you back to the time that</p> <p>19 you were about 25, right?</p> <p>20 A In that -- in that area. A long time ago,</p> <p>21 yes.</p> <p>22 Q What did you do prior to that?</p> <p>23 A I lived in Colorado for eight months. Not</p> <p>24 long enough to become a resident, but I took courses through</p> <p>25 the extension service of Colorado State and that's where I</p> |
| <p style="text-align: right;">11</p> <p>1 Q When did you do that?</p> <p>2 A Seventy-eight, '79.</p> <p>3 Q Did you receive any sort of degree from that?</p> <p>4 A No.</p> <p>5 Q Do you hold any certificates or licenses of</p> <p>6 any other type -- of any type, I should say?</p> <p>7 A No.</p> <p>8 Q Have you done any other training of any sort?</p> <p>9 A No.</p> <p>10 Q What do you do for a living?</p> <p>11 A Excavating.</p> <p>12 Q Excavating?</p> <p>13 A Yeah.</p> <p>14 Q Do you have your own company?</p> <p>15 A I work for Eagle Excavation.</p> <p>16 Q Who owns Eagle Excavation?</p> <p>17 A It is a corporation and my son and I have</p> <p>18 control of the stock.</p> <p>19 Q So do you own equal shares of the stock?</p> <p>20 A Yes.</p> <p>21 Q Are you the president?</p> <p>22 A Yes.</p> <p>23 Q Is your son the vice-president?</p> <p>24 A No, secretary/treasurer.</p> <p>25 Q Do you have a vice-president?</p> | <p style="text-align: right;">13</p> <p>1 got into turf management.</p> <p>2 Q So you started your education at Colorado</p> <p>3 State?</p> <p>4 A Yes.</p> <p>5 Q Did you attend any other colleges or</p> <p>6 universities or --</p> <p>7 A No.</p> <p>8 Q -- secondary schooling of any type?</p> <p>9 A No.</p> <p>10 Q Just in the course of your life, really, have</p> <p>11 you taken any other -- even initiated any other training of</p> <p>12 any type in any field in -- you know, even just as a hobby?</p> <p>13 A No.</p> <p>14 Q Now, are you a township supervisor in Jackson</p> <p>15 Township?</p> <p>16 A Yes.</p> <p>17 Q How long have you held that position?</p> <p>18 A A little over five years.</p> <p>19 Q Had you held any other position with Jackson</p> <p>20 Township prior to that?</p> <p>21 A None.</p> <p>22 Q Did you run for township supervisor or were</p> <p>23 you initially appointed or what?</p> <p>24 A I ran for the office.</p> <p>25 Q You ran for the office?</p> |

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| <p style="text-align: right;">14</p> <p>1 A Yes.</p> <p>2 Q And the first time you ran for the office was</p> <p>3 five years ago?</p> <p>4 A Yes.</p> <p>5 Q How long is the term of appointment?</p> <p>6 A Six years.</p> <p>7 Q Are you going to run again?</p> <p>8 A I submitted a petition. I will be on the</p> <p>9 ballot in the fall.</p> <p>10 Q What are your duties as a township supervisor?</p> <p>11 A To look out for the welfare of the citizens of</p> <p>12 that township.</p> <p>13 Q How many supervisors are there in the</p> <p>14 township?</p> <p>15 A Three.</p> <p>16 Q Is that the full complement? Are there any</p> <p>17 missing or open seats or anything?</p> <p>18 A No.</p> <p>19 Q Who's the chairman of the board of</p> <p>20 supervisors?</p> <p>21 A Mike Yoder.</p> <p>22 Q Have you ever been the chairman?</p> <p>23 A No.</p> <p>24 Q How long is the term of the chairman?</p> <p>25 A That is set annually, each year.</p> | <p style="text-align: right;">16</p> <p>1 So my primary duties are taking care of the roads and</p> <p>2 bridges in the township.</p> <p>3 Q So you're the road master as well as a</p> <p>4 township supervisor?</p> <p>5 A Yes.</p> <p>6 Q What is the -- is the road master an office</p> <p>7 within the township or what is it?</p> <p>8 A It is a position that has been on the books as</p> <p>9 long as I can remember in townships, rural townships.</p> <p>10 Q Is it a paid position?</p> <p>11 A Hourly.</p> <p>12 Q It's hourly. So whenever the township needs</p> <p>13 work on the roads, you do it on behalf of the township --</p> <p>14 A Yes.</p> <p>15 Q -- and you just bill the township?</p> <p>16 A (Witness nods head affirmatively.)</p> <p>17 Q What about your job as township supervisor,</p> <p>18 how does that pay?</p> <p>19 A \$125 a month.</p> <p>20 Q How much time do you put into your job as</p> <p>21 township supervisor?</p> <p>22 A I don't know the exact hours.</p> <p>23 Q Does it vary?</p> <p>24 A Yes.</p> <p>25 Q So you're the road master. What else do you</p> |
| <p style="text-align: right;">15</p> <p>1 Q Has Mike Yoder been the chairman right along</p> <p>2 since you've been on the board?</p> <p>3 A No.</p> <p>4 Q Who else was the chairman?</p> <p>5 A Ralph Weiler.</p> <p>6 Q Can you give me the names of the other two</p> <p>7 township supervisors currently?</p> <p>8 A Yes, Ralph Weiler and Mike Yoder.</p> <p>9 Q And how long have they held those positions,</p> <p>10 their positions?</p> <p>11 A I can't say on Ralph. All I know is it's a</p> <p>12 long time. I have no -- but Mike's been on for six years.</p> <p>13 Q Were you on the -- were they both on the board</p> <p>14 of supervisors when you joined the board?</p> <p>15 A No.</p> <p>16 Q Who came second, Weiler?</p> <p>17 A No.</p> <p>18 Q Who came after you?</p> <p>19 A No, Mike.</p> <p>20 Q Mike came after you. So you gave me the</p> <p>21 general description of your responsibility as a township</p> <p>22 supervisor. Can you now give me a detailed description of</p> <p>23 the types of duties that you have to fulfill?</p> <p>24 A I was appointed at the annual meeting, which</p> <p>25 is a reorganization meeting in January, to be road master.</p> | <p style="text-align: right;">17</p> <p>1 have to do as a township supervisor?</p> <p>2 A Attend meetings, overview on land development</p> <p>3 and subdivisions, answer questions from the citizens.</p> <p>4 Q Let's take the first one. What was the first</p> <p>5 one you said?</p> <p>6 A Overview of subdivision and land use.</p> <p>7 Q What do you do in your role as a township</p> <p>8 supervisor in connection with subdivision and land use, is</p> <p>9 that what you said?</p> <p>10 A Yes. The paperwork usually -- subdivision or</p> <p>11 land use usually comes to the supervisors by an engineer or</p> <p>12 a surveyor, that type of thing, and is laid out on the table</p> <p>13 to -- for the township to review.</p> <p>14 Q When do you do that review, at the township</p> <p>15 meetings or in your spare time or what?</p> <p>16 A We review them at the meeting.</p> <p>17 Q Just during the meeting?</p> <p>18 A Yes.</p> <p>19 Q Do you sometimes come early to the meeting to</p> <p>20 review them or anything or they just get opened up at the</p> <p>21 meeting?</p> <p>22 A No, they get opened at the meeting.</p> <p>23 Q What does an application for a subdivision</p> <p>24 look like? What does it consist of? What is every document</p> <p>25 that it consists of?</p> |

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1 A Well, there's only -- the application, there's
2 one sheet of what is required. And then the engineer or
3 architect or surveyor, they're familiar with our county and
4 the things that are on there that come in, all the necessary
5 things for our subdivision are on there.
6 Q Like what?
7 A The landmarks, wetlands, streams, highways,
8 trails, all these things are on there.
9 Q What else is in -- I mean, if you're at a
10 meeting and you are handed a proposed subdivision plan, what
11 all are you going to have to look at at that meeting at that
12 time?
13 A The plan.
14 Q Just the --
15 A Yeah, one of those, a big sheet, yes.
16 Q So a map basically?
17 A And the presenter usually asks if there are
18 any questions that he can answer while he's there.
19 Q Are there any attachments to it?
20 A Yes.
21 Q Like what?
22 A There's -- they have to have the modules, the
23 location, seven and a half minute quad angle map which
24 determines the location. It's a government map.
25 Q For the sewer modules you mean?

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1 A For the plan, the subdivision.
2 Q What else? Anything else?
3 A Usually once that's done there's a -- a
4 procedure that the surveyor or engineer brings in which is
5 the narrative and all these things contained -- concerning
6 the subdivision.
7 Q Well, what are all these things concerning the
8 subdivision?
9 A All the -- all the lots that are proposed and
10 the roads that are proposed. All the things pertaining to
11 that development.
12 Q Let's talk about the sewer module for a
13 minute. What do you expect to see with the sewer module?
14 A The sewer module will have on there the
15 proposed dwellings with the amount of gallon each per day
16 generated for the site.
17 Q And would it have markings on it to show where
18 possible sewage sites could be?
19 A Well, the map will show all the probes and
20 percs on the whole property that were done.
21 Q Are these approved probes and percs, you mean?
22 A Yes.
23 Q So when the subdivision plan comes to you,
24 it's already -- it already has a sewer module attached to
25 it. And in order for you to approve it, it has to have an

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1 approved sewer module, correct, an approved -- I'm sorry,
2 approved sewage sites, correct?
3 A Yes.
4 Q How do you tell that there's an approved
5 sewage site?
6 A The work is done by the SEO.
7 Q And the SEO, for the record, is?
8 A Barry Parks. And he generates -- there has to
9 be an application and then he generates from the field work
10 what the perc rates are for each site and these are given to
11 the designer to design a system for each site.
12 Q I'm going to show you a document that we're
13 going to mark as Wilson Exhibit 2.
14 (Sewage facilities planning module produced
15 and marked as Wilson Exhibit No. 2.)
16 BY MS. MONTGOMERY:
17 Q I'd ask you to look at that, Mr. Wilson. Do
18 you know what this document is?
19 A Yeah, it's a sewer planning module.
20 Q As you look through this document, does it
21 have everything on there that you would need to see with
22 respect to the sewage sites for purposes of approving a
23 subdivision plan?
24 A If this was setting in front of me at the
25 meeting, questions would be raised of why a new sewage

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1 module wasn't generated because this has been reworked.
2 Q Because what's been reworked?
3 A It's been reworked.
4 Q I'm not sure I understand what you mean. What
5 has been reworked?
6 A Well, there's things on here that have been
7 changed.
8 Q Well, what do you see that's been changed?
9 A Well, the number of lots.
10 Q Okay. So it went from a higher number of lots
11 to a lower number of lots, right?
12 A Yeah, if I was looking at this, I would want
13 to see the map too, of which I assume there's one that ...
14 Q Well, let's look at page 5. Do you see up in
15 Section H where you have the signature of Barry Parks?
16 A Um-hum.
17 Q Is that one of the things you'd look for to
18 see whether or not there's -- whether the lot is suitable
19 for on-site sewage, look for his signature up in that --
20 A Yes.
21 Q Let's look at page -- well, there's some
22 attachments so you'll have to go after page 9 to the site
23 investigation and percolation test reports. Would you look
24 at each one of these site investigation and percolation test
25 reports for the signature of the sewage enforcement officer?

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1 A No.
2 Q You wouldn't look at that?
3 A No.
4 Q Why not?
5 A If it's gone that far, it has been through his
6 process. And he's hired by the township to take care of
7 these things. And when these things come in, this sheet
8 will come with a design for him to either approve or
9 disapprove.
10 Q A design of what?
11 A An on-lot sewage system.
12 Q When they come into -- when the subdivision
13 plan comes to you, it comes with the design of an on-lot
14 sewage system?
15 A No.
16 Q As long as you see that he signed off back
17 here, is that what you're concerned with, when we went back
18 here to page 5?
19 A These modules -- when the plans come in and
20 the modules are there, Parks says -- I'm sorry, Barry Parks,
21 the sewage officer, is at the meeting to explain the soil
22 modules in reference to the subdivision.
23 Q Let me ask you this: Do you understand the
24 process to be that the sewer modules -- sewage modules have
25 to be approved first and then you get an on-lot sewage

24

1 connection with the installation of septic systems?
2 A We install -- the company Eagle installs
3 on-lot sewage systems.
4 Q Is that primarily what Eagle Excavation does
5 or is there other types of excavating work that it does?
6 A Other types.
7 Q What else does it do?
8 A Land clearing, road building, foundation
9 digging, water sewer lines and we repair septic systems.
10 Q So let me ask you this question: If you had a
11 site that was contemplated for a septic system and it had in
12 some way been disturbed, do you know what you would do in
13 order to bring the site back to the way it had been before
14 it had been disturbed? Do you re-excavate, that's really my
15 question?
16 A No.
17 Q What do you do?
18 A I don't know.
19 Q Say that you had an approved sewage site --
20 have you ever had the situation where you've had an approved
21 sewage site and somebody drove over it, drove over the
22 site --
23 A No.
24 Q -- and you said, oh, the soil is compacted.
25 You never had a soil compaction problem for a sewage site

23

1 system designed? Do you understand that to be the process?
2 A I don't remember.
3 Q That's fine if you don't remember. That's
4 fine. The document that you're looking at right now, Wilson
5 Exhibit 2, is a sewage facilities planning module for the
6 Corneal property, correct?
7 A That's what it states, yes.
8 Q When you said it was reworked, are you looking
9 at Section 2 of page 1?
10 A Yes.
11 Q And how was it reworked there?
12 A Creation of a different amount of lots.
13 Q So it went from what?
14 A I'm sorry. Apparently that's a three under
15 there to a two.
16 Q How else was it reworked that would raise
17 questions for you?
18 A That question right there I would pose to our
19 sewage officer.
20 Q Would you be concerned that it went to fewer
21 lots or would you be concerned if it went to more lots?
22 A Not concerned as long as the sewage work was
23 there.
24 Q Now, let's talk a little bit more about your
25 work in excavation. Do you perform excavation work in

25

1 before?
2 A No.
3 Q Ever?
4 A Ever.
5 Q You never faced it?
6 A Never.
7 Q So do you know as an excavator and somebody
8 who excavates for the installation of septic systems what
9 you would do if a site was compacted by having been driven
10 over a few times? Do you know what you would do?
11 A If I had a contractor construct a site there,
12 the sewage officer would be informed right away.
13 Q But do you know what an excavation company
14 would do to fix it?
15 MR. SHERR: Objection.
16 BY MS. MONTGOMERY:
17 Q Do you have any idea?
18 MR. SHERR: It's been asked and answered.
19 MS. MONTGOMERY: I'm asking if he knows what
20 he would do.
21 MR. SHERR: And he said he didn't already.
22 You can answer her question.
23 THE WITNESS: I don't know.
24 BY MS. MONTGOMERY:
25 Q You wouldn't know how to fix it?

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| | |
|---|--|
| <p style="text-align: right;">26</p> <p>1 MR. SHERR: Objection, asked and answered for</p> <p>2 the fourth time. You can answer it again.</p> <p>3 THE WITNESS: My experience in 12 years is</p> <p>4 that it can't be fixed.</p> <p>5 BY MS. MONTGOMERY:</p> <p>6 Q So you do think you know whether or not it</p> <p>7 could be fixed? What is your experience in 12 years?</p> <p>8 A My experience in --</p> <p>9 MR. SHERR: Objection. It's a compound</p> <p>10 question. Which question would you like him to answer?</p> <p>11 BY MS. MONTGOMERY:</p> <p>12 Q So you do think it can't be fixed?</p> <p>13 A That's -- yes.</p> <p>14 Q Why is that?</p> <p>15 A Whenever I go to the sewage seminars, that is</p> <p>16 one of the things that's drilled into us as contractors,</p> <p>17 don't touch a site, don't get near it.</p> <p>18 Q But then do they tell you -- if somebody does</p> <p>19 get near it, do they tell you what to do?</p> <p>20 A Yes.</p> <p>21 Q What's that?</p> <p>22 A The sewage officer rejects it.</p> <p>23 Q That's what they taught you in the seminar?</p> <p>24 A Yes.</p> <p>25 Q Going one step further, you said in my</p> | <p style="text-align: right;">28</p> <p>1 A That's up to the land owner.</p> <p>2 Q What kind of professional does the perc tests?</p> <p>3 A The perc test is done by the sewage officer.</p> <p>4 Q All right. And then what?</p> <p>5 A Once that's done, the -- that sheet is</p> <p>6 generated like back here with his -- with his results.</p> <p>7 Q With the sewage officer's results?</p> <p>8 A Yes.</p> <p>9 Q So let the record reflect that you're</p> <p>10 referring to the percolation test report, site investigation</p> <p>11 and percolation test reports on Wilson Exhibit 2, correct?</p> <p>12 A Yes.</p> <p>13 Q So those are generated next and then what</p> <p>14 happens?</p> <p>15 A The property owner takes these to a designer</p> <p>16 and has a design constructed for bidding purposes to put a</p> <p>17 system in there.</p> <p>18 Q So the property owner takes the approved</p> <p>19 sewage facilities planning module to somebody for design,</p> <p>20 correct?</p> <p>21 A That I don't know. The only -- my experience</p> <p>22 is that the soil -- the application for on-lot sewage and</p> <p>23 the soil work-up sheet from the sewage officer is all I've</p> <p>24 ever seen from designers to use.</p> <p>25 Q The application you're -- tell me that again.</p> |
| <p style="text-align: right;">27</p> <p>1 experience in 12 years -- I think this was your testimony.</p> <p>2 It can't be fixed, is that what you said?</p> <p>3 A Yes.</p> <p>4 Q I'm just going to ask you a little bit more</p> <p>5 about what you know about the whole process for approval of</p> <p>6 a sewage system. Now, in your work as an excavator are you</p> <p>7 expected to understand the process for sewage system</p> <p>8 approval for on-lot sewage systems?</p> <p>9 A No.</p> <p>10 Q In your work as a supervisor are you expected</p> <p>11 to know the process?</p> <p>12 A Yes.</p> <p>13 Q So do you understand the process and can you</p> <p>14 explain it to me?</p> <p>15 A Initially the property owner calls -- they</p> <p>16 usually call a contractor and we recommend that we can't do</p> <p>17 anything till the sewage officer is called. And then the</p> <p>18 sewage officer will set up a schedule where the backhoe can</p> <p>19 meet there with the sewage officer and usually the property</p> <p>20 owner and soil probes -- soil logs are dug.</p> <p>21 Q And then what?</p> <p>22 A Once the -- there's verification from the</p> <p>23 sewage officer that there's suitable soil there for on-lot,</p> <p>24 there's a direction made to do perc tests.</p> <p>25 Q And who does the perc tests?</p> | <p style="text-align: right;">29</p> <p>1 I'm sorry, I missed it.</p> <p>2 A Application for on-lot sewage.</p> <p>3 Q And?</p> <p>4 A On there it has proposed bedrooms of the house</p> <p>5 and location of the house -- proposed location of the house,</p> <p>6 proposed well. All these things are taken into</p> <p>7 consideration by the designer.</p> <p>8 Q And then he designs a septic system suitable</p> <p>9 for the property?</p> <p>10 A That site.</p> <p>11 Q For that site?</p> <p>12 A (Witness nods head affirmatively.)</p> <p>13 Q Now, if there's more than one approved site</p> <p>14 investigation -- well, I should say if there's more than one</p> <p>15 approved sewage site, could you expect that the septic</p> <p>16 system designer could design one for any one of those</p> <p>17 approved sites?</p> <p>18 A With the proper material.</p> <p>19 Q With the proper material. What do you mean by</p> <p>20 material?</p> <p>21 A The application with the proposed building,</p> <p>22 the size of the building, the wells, the location, all those</p> <p>23 things, and the slopes.</p> <p>24 Q Well, I'll ask it to you slightly</p> <p>25 differently. If there are a number of approved by Barry</p> |

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1 Parks, site investigation and percolation test reports, is
2 it permissible -- is it your understanding that it's
3 permissible to place a septic system at any one of those
4 approved sites?
5 A No.
6 Q Why is that?
7 A Not except where the site is specific, where
8 that building is going to go.
9 Q Right.
10 A Yes.
11 Q It's your understanding that it has to be a
12 specific site for where the building is going to be? I'm
13 not sure I understand you.
14 A Where there's a proposed site, usually there's
15 a proposed home going to be there and a well and everything
16 with that.
17 Q So could there be more than one site approved
18 by the sewage officer for the proposed building?
19 A All the approved sites that he approves are
20 suitable for a building.
21 Q Prior to joining the board of supervisors,
22 were you under contract to the township for any work at any
23 time?
24 A No.
25 Q No?

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1 A No.
2 Q Prior to becoming the road master, did you
3 perform any roadwork for the township?
4 A No.
5 Q In your capacity as a township supervisor, are
6 you familiar with the requirements for enacting ordinances?
7 A I don't understand.
8 Q As a township supervisor, do you know what you
9 have to do to enact an ordinance for the township?
10 A Yes.
11 Q What do you have to do?
12 A The ordinance is drawn up and discussed, the
13 supervisors discuss this, and it's -- and when it's pulled
14 together, typed up and ready for adoption, there's an ad put
15 in the newspaper to advertise it. And there's so many days,
16 and I -- I don't know what that -- off the top I don't know
17 what that is.
18 So many days that that has to be open for
19 public review and then there will be a -- once that's done,
20 there is another notice put in that the ordinance will be
21 adopted a certain time and date.
22 Q How do you know how to enact an ordinance?
23 Who did you consult with to figure out how to enact an
24 ordinance?
25 A Those things come out of the state

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1 association, PSATS.
2 Q The Pennsylvania Association of Township
3 Supervisors?
4 A Yes.
5 Q Do you consult with anybody else about
6 enacting ordinances?
7 A I believe now things are -- I believe that the
8 township solicitor is asked to look at it to see if it meets
9 legal requirements.
10 Q The township solicitor is?
11 A Larry Newton.
12 Q How long has he been the township solicitor?
13 A I don't know.
14 Q Has he been there since you've been there?
15 A Yes.
16 Q As a township supervisor?
17 A Yes.
18 Q So if you have any questions about whether or
19 not an ordinance is appropriate, you consult the solicitor?
20 A Yes.
21 Q Do you know whether or not you are supposed to
22 make copies of the ordinances available for the public?
23 A Yes.
24 Q You are supposed to?
25 A Yes.

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1 Q Where do you keep them?
2 A There's -- I'm going back here now. There was
3 copies made of the subdivision and land use ordinance and it
4 was advertised in the paper that they were available for --
5 I think it was five dollars. And we -- we don't have the
6 money that we went out and made lots of those things.
7 Usually people would call and we would have to go to
8 someplace that does that for us because we don't have those
9 facilities.
10 Q Like a copy center you mean?
11 A Yes, yes, and run them off, but there -- as
12 far as I know there is no reserve. It's a --
13 Q Do you know how they're kept? Do you know how
14 the ordinances are kept? In what form, is really what I'm
15 asking you?
16 A I think just in the filing cabinet in folders.
17 Q In folders in Ann Wirth's office?
18 A Yes.
19 Q What about the proposed ordinances, do you
20 make them available to the public?
21 A Proposed ordinance.
22 Q Before the ordinance is actually enacted.
23 A Yes, we -- that's law.
24 Q So if somebody wants to see it, you make
25 arrangements for them to get a copy of it?

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1 A Yes.
2 Q Do you think that that's -- they're entitled
3 to it?
4 A Yes.
5 Q Do you hold any hearings on the proposed
6 ordinances when you -- I know you haven't had a lot of
7 ordinances in your township, but to the extent you have, do
8 you hold public hearings on the ordinances?
9 A **There again, it's advertised in the paper that**
10 **the ordinance is available for review.**
11 Q And then what would you expect, if the public
12 has anything to say about it they would come to the township
13 meetings?
14 A **Or call.**
15 Q Or call?
16 A **Yes.**
17 Q And give their comments or what?
18 A **Call to ask to see it, yes.**
19 Q And who would they call?
20 A **The secretary of the township.**
21 Q Anybody else they could call?
22 A **They could call any of the supervisors.**
23 Q How about the township solicitor, could they
24 call him?
25 A **I don't know.**

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1 Q So going back to my question about a public
2 hearing, is it your testimony that the public hearing that
3 you hold consists of publishing it in the paper and making
4 the proposed ordinances available if people want to see it?
5 A **I haven't been involved in many. I haven't**
6 **been a supervisor that long, but the -- it was advertised in**
7 **the paper of a public meeting and the citizens were informed**
8 **of what was transpiring in the township for that -- that**
9 **meeting was a special for that.**
10 Q A public township supervisor's meeting?
11 A **A public meeting, yes.**
12 Q But was the public meeting -- you mean a
13 meeting of the board of supervisors?
14 A **No, a public meeting. Everybody's -- it's a**
15 **public meeting.**
16 Q And who would be at that meeting?
17 A **Any citizen.**
18 Q So you think that it was advertised in the
19 paper -- with respect to the subdivision and land use
20 ordinance that was passed by Jackson Township, you believe
21 there was an advertisement for a public meeting?
22 A **Yes.**
23 Q I'm going to show you what we're going to mark
24 as Wilson Exhibit 3.
25 (Interruption.)

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1 BY MS. MONTGOMERY:
2 Q I'm going to show you -- well, I was going to
3 show you some documents. Unfortunately, when we handed Miss
4 Wirth this document yesterday, she wrote on it, it appears.
5 We won't make this an exhibit in this deposition so strike
6 that. We'll just show you the original that was part of
7 Miss Wirth's deposition.
8 MS. MONTGOMERY: Let the record reflect that
9 we are showing Mr. Wilson Wirth Exhibit 1.
10 BY MS. MONTGOMERY:
11 Q Is that the newspaper advertisement, notice of
12 a public meeting that you're referring to?
13 A **Yes.**
14 MS. MONTGOMERY: Apparently my secretary has
15 an emergency and I'm going to have to take a very short
16 break. I will be right back.
17 (Break taken at 9:28 a.m. until 9:33 a.m.)
18 BY MS. MONTGOMERY:
19 Q Just so I'm clear about your testimony on
20 public hearings for the proposed ordinances, if there was
21 going to be a public hearing would it be held at the
22 township supervisor's meeting house, meeting room, the
23 office there with the board of supervisors present?
24 A **No.**
25 Q Where would it be held?

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1 A **At the fire hall.**
2 Q Oh, in the fire hall. Okay, all right. With
3 the board of supervisors present, right?
4 A **Yes.**
5 Q And would it be at a special meeting called by
6 the township supervisors precisely for that purpose?
7 A **Can you -- can you bring that back. I --**
8 **something jogged there.**
9 Q Okay. It would be at a meeting called by the
10 township supervisors, either a regular meeting or a special
11 meeting advertised by the township supervisors where
12 everybody would come so they could have a public meeting
13 about it, is that correct?
14 A **Yes.**
15 Q We talked a little bit about ordinances and
16 how you enact proposed ordinances in the township. What
17 about a moratorium? Have you ever done any other moratorium
18 other than the one that's at issue in this lawsuit?
19 A **No.**
20 Q So there has only been one moratorium and that
21 was a moratorium on proposed subdivisions, correct?
22 A **Yes.**
23 Q How did that come about?
24 A **It came about from information that we were --**
25 **we had the county reviewing our ordinance and from the**

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1 emergency people in our area, fire company, EMS, all these
2 people had concerns that the subdivision and land use
3 ordinance was going to cover safety issues to the fullest
4 extent because of the rural area. So a decision was made by
5 the supervisors to stop subdivisions until the ordinance was
6 enacted.

7 Q Subdivisions of any type, even dividing a
8 hundred acres into two lots?

9 A Yes.

10 Q You decided you couldn't do that for public
11 safety reasons?

12 A No, it was to stop -- as I stated, I believe,
13 to stop all subdivisions until the ordinance was in place.

14 Q Whose idea was the moratorium?

15 A The supervisors.

16 Q Which supervisor first mentioned it?

17 A I don't remember.

18 Q Were you all in agreement on it, that this was
19 the thing to do?

20 A Yes.

21 Q Did you consult with somebody about it?

22 A I don't believe.

23 Q Did you consult with Larry Newton about it?

24 A I don't remember.

25 Q Did you tell Larry Newton you were going to

40

1 Q Did you place the moratorium in any sort of
2 writing, written document?

3 A Not that I recall.

4 Q In other words, there's a written document
5 that reflects the ultimate subdivision plan that you all
6 drafted up and enacted, correct?

7 MR. SHERR: Object to the form of the
8 question, subdivision plan.

9 MS. MONTGOMERY: Subdivision ordinance. Well,
10 just strike it and I'll start again.

11 BY MS. MONTGOMERY:

12 Q There is a written document that comprises the
13 subdivision ordinance that the Jackson Township Board of
14 Supervisors enacted, correct?

15 A Yes.

16 Q Is there a similar written document that
17 comprises a moratorium on subdivision?

18 A No.

19 Q Now, you said you know that you informed Mr.
20 Newton at least after the moratorium was put in place and I
21 think you testified you're not sure exactly when, but now
22 that you've said that it was January 2000 when you enacted
23 -- or when you, I should say, put in place the moratorium,
24 does that help you recall when you told Larry Newton about
25 it?

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1 put the moratorium in place?

2 A Yes, and I believe that there was a public
3 notice put in the newspaper.

4 Q You believe there was a public notice put in
5 the newspaper about the moratorium?

6 A Yes.

7 Q Who do you think put that public notice in the
8 newspaper?

9 A Either the solicitor or the secretary.

10 Q So if the solicitor put it in the newspaper,
11 he would have to have known about the moratorium, correct?

12 A Yes. I can't recall discussing it with him
13 till we did it.

14 Q You can't recall discussing the moratorium
15 with him until after you did it?

16 A Yes.

17 Q How soon after you did it did you discuss it
18 with him?

19 A I don't know.

20 Q Do you remember when the moratorium was put in
21 place?

22 A January 2000.

23 Q Did you hold any public meetings on the
24 moratorium?

25 A No.

41

1 A No.

2 Q Do you think you waited until the summer to
3 tell him about it?

4 A No. No, it wasn't that long. I -- I don't
5 know -- I don't know days or weeks or -- that should be --
6 that should be available.

7 Q When you told him?

8 A No, when it was in the newspaper.

9 Q Let me ask you this: How does Larry Newton
10 bill the township for his time?

11 A Hours of service.

12 Q So he sends you monthly bills?

13 A No.

14 Q Does he send you quarterly bills?

15 A No.

16 Q What does he send you?

17 A Whenever he has some time. I guess in theory
18 he's a full-time solicitor but his services aren't used
19 every month or something like that. It's just on an as --
20 as-needed basis.

21 Q Is he on a salary or he's on an hourly?

22 A Hourly.

23 Q So if he performs work for you, then he writes
24 it down somehow, describes what the work is and sends it to
25 you in an invoice?

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1 A He sends it to the township secretary and it's
2 shown to us at the meeting, yes.
3 Q So she shows you that?
4 A Yes.
5 Q Do you recall seeing some time on a township
6 -- on your township solicitor's bill for discussing the
7 moratorium or reviewing the moratorium or anything like
8 that?
9 A No.
10 Q No?
11 A (Witness shook his head negatively.)
12 Q You don't recall it?
13 A I don't recall it.
14 Q Well, you said you don't think you waited
15 until the summer, right? Do you think that you told him
16 about the moratorium within a few weeks?
17 A I don't know.
18 Q Well, you don't have to know the exact date.
19 I mean, that's not what we're looking for at all. We just
20 need an approximate time frame. Do you think it was still
21 winter when you told him about it?
22 A Yes.
23 Q What makes you think that?
24 A I -- I wish I could remember when the item was
25 in the newspaper. I just ...

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1 A No.
2 Q That's okay. It's okay if you don't
3 remember. I'm just asking you. Did you discuss it with Ann
4 Wirth?
5 A Discuss --
6 Q Putting the notice of the moratorium in the
7 paper with Ann Wirth after the moratorium was put in place.
8 A No.
9 Q You didn't discuss it with her?
10 A What would the need be, she's right at the
11 meeting taking down the information.
12 Q I'm just trying to get to the point of who
13 decided to put the notice in the paper. At the January 2000
14 meeting when you put the moratorium in place, did you go
15 through a process of making a motion? Did somebody make a
16 motion to put a moratorium in place and was it approved and
17 all that or did you just all decide to stick it in the
18 minutes that there was a moratorium in place?
19 A I don't remember.
20 Q If you did that, if you made a motion, if you
21 said we now move -- somebody moves that there's a moratorium
22 to be put in place on subdivisions and somebody else seconds
23 it and somebody else says, you know, all in favor, would
24 that be in the minutes?
25 A Yes.

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1 Q You think the item went into the newspaper
2 after the moratorium was in place?
3 A Yes.
4 Q I see. What makes you think the item went in
5 the newspaper after the moratorium was in place?
6 A I don't know.
7 Q Did you all decide, well, now we have the
8 moratorium, we better post it in the newspaper so everybody
9 knows about it?
10 A Yes.
11 Q So who did you discuss that with?
12 A The solicitor.
13 Q Did he tell you that now that you have a
14 moratorium you better put it in the paper so the public
15 knows about it?
16 A No.
17 Q But you discussed it with him, right? What
18 was the nature of the discussion?
19 A He was informed that the Jackson Township
20 supervisors enacted by unanimous vote at the meeting and set
21 into motion the moratorium for subdivisions and land use in
22 Jackson Township until the ordinance was adopted.
23 Q So whose idea was it to put it in the paper?
24 A I don't know.
25 Q You don't know?

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1 Q It should be in the minutes if you did it?
2 A Yes.
3 Q Let's talk about the first time that you met
4 David Corneal. Do you recall it?
5 A Yes.
6 Q When was that?
7 A I don't remember the day.
8 Q What was the occasion?
9 A I believe he pulled into my business
10 establishment.
11 Q For what purpose?
12 A If I remember correctly, it was to do some
13 work for him.
14 Q What kind of work?
15 A Clean up a site.
16 Q Clean up a site in what -- for what, do you
17 know?
18 MR. SHERR: Objection. Did you say clean off
19 the site?
20 THE WITNESS: Clean up the site.
21 MR. SHERR: Clean up?
22 THE WITNESS: Up. Yes, up.
23 BY MS. MONTGOMERY:
24 Q Clean up a site for what?
25 A It was some litter that deposited over the

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1 years and he -- David wanted it cleaned up.
2 Q So it was some trash on his property you mean?
3 A Yes.
4 Q And so did you perform that work for him?
5 A No.
6 Q Why is that?
7 A I just never got to it. It was a --
8 Q It was a busy time?
9 A Well, it was weather related and I didn't make
10 it.
11 Q So then did you have occasion to meet him
12 another time after that?
13 A Yes, and I -- I can't recall the dates, but he
14 needed a backhoe.
15 Q For what?
16 A Soil probes.
17 Q For his soil probes. So did he come again to
18 your business establishment?
19 A I think so.
20 Q Well, in any event, you agreed to go out and
21 do excavation work in connection with the soil probes?
22 A Yes.
23 Q When you agreed to do that, did Mr. Corneal
24 explain to you what he intended to do with his property?
25 A I don't recall.

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1 Q Did he tell you that he wanted a number of
2 lots on his property?
3 A I remember the part that he wanted various
4 probes dug, but I -- I don't recall of him saying exactly
5 how many lots he was looking for or anything like that.
6 Q Did you understand he was looking for at least
7 another lot to build a building for himself, a dwelling for
8 himself?
9 A Yes.
10 Q Did you understand that he was also looking
11 for at least another lot perhaps for his -- for family
12 members?
13 A No.
14 Q So did you understand he wanted to subdivide
15 his property at least into two lots?
16 A I under -- I was under -- under the
17 understanding that he was going to split it up into lots,
18 yeah.
19 Q You were under that when you went out to do
20 that work?
21 A Yes.
22 Q Is it your understanding that Mr. Corneal also
23 knew at that point that you were also a township supervisor?
24 A I don't -- I don't know that.
25 Q So you went out and you performed the

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1 excavation work for Mr. Corneal?
2 A Yes.
3 Q What did that involve?
4 A Driving a backhoe all over the property and
5 the sewage officer -- and I can't even remember if Mr.
6 Corneal was there -- deciding we're going to try this soil,
7 this site here and move on, that type of thing.
8 Q Did you make reference to a plot plan at that
9 point or a plan or a survey of any type?
10 A I don't recall.
11 Q Do you recall whether there was a map, a
12 survey map or anything like that that accompanied you in
13 your work that day?
14 A No.
15 Q Did you have a written contract with him for
16 the services?
17 A No.
18 Q You just agreed on a price or was it on an
19 hourly or what?
20 A Hourly rate.
21 Q Did you actually do the work yourself?
22 A No.
23 Q Who did it?
24 A I believe Mike Foster was on the backhoe.
25 Q Mike Foster?

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1 A Yes.
2 Q Is Mike Foster your nephew?
3 A No.
4 Q Do you have a nephew who works for you?
5 A Yes.
6 Q What's his name?
7 A Matt Armstrong.
8 Q Matt Armstrong. Do you think maybe he was at
9 that project?
10 A I'm sure that Matt was there at one time or
11 another. I just can't recall -- I have more than one hoe
12 operator and ...
13 Q Do you know how Mr. Corneal came to hire you
14 for this project? Did somebody recommend him, do you know?
15 A I don't know.
16 Q Do you know whether you'd ever seen Mr.
17 Corneal at a township meeting prior to the time that Eagle
18 Excavation did the work?
19 A I don't recall.
20 Q But you said that you had met Mr. Corneal
21 prior to the time you did the excavation work in connection
22 with his request that you do other work on his property,
23 correct?
24 A Yes.
25 Q Do you recall how long you talked to him at

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1 that meeting?

2 A It was sort of a walk around chatty type and
3 that could be the -- the time that I said that I was a
4 township supervisor. I just -- it's been a while.

5 Q Did you ever mention -- when Mr. Corneal first
6 contacted you to do the work on the property either removing
7 his debris or digging the test pits, did you mention a
8 proposed moratorium to him at that time?

9 A I advised Mr. Corneal at one of the times we
10 were there working on the sewage that if he was going to
11 subdivide his property he should do it this year because
12 there's -- the township is working on ordinances for 2000.

13 Q So that would indicate that you did understand
14 he was trying to subdivide his property --

15 A Well --

16 Q -- when you were doing that work for him,
17 correct?

18 A These things sort of evolved in the days that
19 we were there working. I can't ...

20 Q Did you come out to the property at some point
21 when somebody else was running the backhoe in connection
22 with digging the test pits?

23 A I was in and out -- that's what I do. I -- I
24 have various jobs going and I'm here, there and everywhere.

25 Q So you just go out to oversee it and that sort

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1 Q So did you shale that road?

2 A No.

3 Q Why not?

4 A I came back to the office this one day and
5 there was a slip of paper there from David that McClintic
6 had said that it will take X amount of shale -- loads of
7 shale to do this road and I just -- I just didn't get to it.

8 Q So you intended to do it but you just didn't
9 get to it?

10 A Well, the length of time that had transpired
11 there, the next thing I knew somebody else was doing it.

12 Q So Mr. --

13 A It's not that I -- I had my shale pits right
14 there across the road from his house.

15 Q So you intended to do it but he got somebody
16 else to do it?

17 A I intended to do it, but I -- I was busy.

18 Q Okay. Did you have any problem with where --
19 you know, any concerns at all about where he was putting
20 that road that he wanted you to shale -- was that road
21 already there?

22 A It was an existing log road.

23 Q So did you have any problem with shaling that
24 road? Did you think there was anything wrong with that?

25 A No.

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1 of thing?

2 A See if everything is okay.

3 Q So you advised him that he ought to subdivide
4 his property at the point that you were doing his excavation
5 because you were going to put a subdivision ordinance in the
6 next year, right?

7 A Yes.

8 Q Do you recall what Mr. Corneal said back to
9 you about that?

10 A No.

11 Q At the time that you were out there working on
12 his property, or that Eagle Excavation was out there working
13 on his property was the township considering a moratorium at
14 that point?

15 A No.

16 Q After you dug the test pits, did the Corneals
17 ask you to do any other work on their property in your
18 capacity as Eagle Excavation?

19 A Yes.

20 Q What was that?

21 A To shale a road.

22 Q And what road was that?

23 A The old logging road that went down to -- and
24 crossed the power line and actually got to where it crossed
25 the stream, Laurel Run.

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1 Q Did Mr. Corneal ask you then to do any other
2 work on his property?

3 A No.

4 Q So you dug the test pits. Did you help at all
5 in any way with the perc tests?

6 A Yes.

7 Q What did you do there?

8 A We dug the holes and supplied the water for
9 the sewage officer.

10 Q And that was a different day than actually
11 digging the test pits, right?

12 A Yes.

13 Q So you did actually perform some other work
14 for him?

15 A Yes.

16 Q That's all right. Did you do the perc tests
17 after he asked you to shale the road or before?

18 A Before.

19 Q So asking you to shale the road, was that the
20 last thing he asked you to do for him on his property?

21 A Yes.

22 Q Did you know why Mr. Corneal was asking you to
23 help with the perc tests on the property?

24 A No.

25 Q You didn't know what he was looking for there?

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1 A Well, that was -- that was to get -- for the
2 sewage officer to set the perc rates, is all --
3 Q So he was looking for on-lot septic system?
4 A Yes.
5 Q On a variety of lots, right?
6 A Yeah.
7 Q Did you understand that at the time?
8 A Yes, yes.
9 Q Did you actually perform the perc test
10 yourself?
11 A No.
12 Q Who did it?
13 A My crew.
14 Q Do you recall who from your crew went out and
15 did it?
16 A No.
17 MS. MONTGOMERY: Well, let me just consult for
18 one second.
19 (Break taken from 10:01 a.m. until 10:02 a.m.)
20 BY MS. MONTGOMERY:
21 Q Did Mr. Corneal pay you for doing the work on
22 his property, pay Eagle Excavation for doing that work?
23 A Yes.
24 Q He paid all his bills?
25 A Yes.

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1 Q Do you recall how much the work was --
2 A No.
3 Q How much the work cost?
4 A No.
5 Q Do you recall when you finished up the work on
6 the property with the perc tests?
7 A June, July, August, late -- it was late
8 summer. It was dry. July, August, in that area.
9 Q Was it your understanding that the sewage
10 enforcement officer had found a number of good sites for
11 on-lot sewage systems on that property?
12 A Yes.
13 Q Now, the property itself, the Corneal
14 property, are you familiar with that property from before
15 you knew Mr. Corneal?
16 A Yes.
17 Q And how are you familiar with that property?
18 A That was my grandfather's farm so I ran around
19 there a lot as a tyke.
20 Q Did you ever live there yourself?
21 A No.
22 Q Your grandfather owned the farm -- the
23 farmhouse that exists on the property now --
24 A Yes.
25 Q -- is that correct? Did he also own the whole

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1 piece of land that Mr. Corneal owns there?
2 A Yes.
3 Q So there's approximately 95 acres, is that
4 what it is? Is that what your grandfather owned?
5 A No.
6 Q What did he own?
7 A He owned on the other side of the road, too,
8 clear across Route 26, which over the -- through the fifties
9 and stuff it was chopped up.
10 Q He sold it off through the fifties?
11 A Mostly to his children, yeah.
12 Q Do you live near Mr. Corneal's property?
13 A No.
14 Q How far from it do you live?
15 A Approximately three miles.
16 Q When did your grandfather sell the farmhouse?
17 A Unfortunately he didn't. I believe it was an
18 estate sale.
19 Q Oh, he passed away?
20 A Yes.
21 Q I'm sorry. Did you -- I didn't mean to ask
22 you the question like that, I apologize. Did he sell --
23 well, when the estate sale occurred, was it for the entire
24 95-acre piece?
25 A No.

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1 Q What was it for?
2 A It was -- and I don't know the acreage.
3 Across the township road from the farmhouse and barn, there
4 was acreage there that went with it.
5 Q So there was still --
6 A It was a bigger plot, yeah.
7 Q And who bought the property at that point?
8 A Taylor Wilson.
9 Q Is that a relative of yours?
10 A Yes.
11 Q How is he related or she related to you?
12 A He's deceased too. He was a second cousin.
13 Q I see. So the property -- when did the estate
14 sale occur?
15 A I believe I was a senior in high school, '59,
16 '60, along there somewhere.
17 Q And then your second cousin bought the
18 property and how long did he own it?
19 A Up until -- I don't know when he sold that
20 half off. I don't know. He split the property.
21 Q He split the 95 acres that Mr. Corneal owns?
22 A And kept everything on the west side of Miller
23 Road -- I mean Sawmill Road.
24 Q Do you have any interest in purchasing the old
25 Wilson homestead there?

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1 A I -- I think at -- in our -- no. I was
2 wandering there. I was thinking of -- we were walking
3 around and David and McClintic -- I don't remember who was
4 around, but I was sort of reminiscing about my grandkids, it
5 would be nice to have a place away from the highway that the
6 kids could go, but, geez, I couldn't afford to buy the
7 property.
8 Q Are you aware of whether or not your nephew
9 approached Mr. Corneal about buying the property?
10 A I am aware.
11 Q And what happened?
12 A He came back to me all excited and wanted me
13 to lend him money and I didn't have the money to lend him.
14 Q He wanted to buy the old homestead?
15 A Yeah.
16 Q Did you and he discuss whether or not you
17 could buy it together or anything like that?
18 A No.
19 Q Did you ever discuss with him any way that you
20 could keep the property in the family?
21 A No. What I might say is I advised him to go
22 to Kish Bank and see if he could get a mortgage set up,
23 that's what I advised him.
24 Q Well, what your nephew was interested in
25 buying, was that the 26-acre piece with the farmhouse on it?

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1 A Yes.
2 Q How did you become aware that the Corneals
3 were interested in selling that 26-acre piece off?
4 A I don't recall.
5 Q Did you ever try to help your nephew or
6 anybody else find the money to acquire that 26-acre piece
7 since Mr. Corneal has owned it?
8 A No.
9 Q Did you ever request that anybody assist your
10 nephew in purchasing it?
11 A No.
12 Q Now, at what point do you recall your nephew
13 coming to you all excited and talking about buying the
14 property?
15 A I don't remember.
16 Q Was it around the time you were doing the
17 excavating work?
18 A I don't believe.
19 Q You think it was later than that?
20 A Yes.
21 Q Do you think it was -- was it before the
22 winter, does that help?
23 A I don't know.
24 Q Well, correct me if I'm wrong, the excavation
25 work was done in 1999; isn't that correct?

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1 A Yes.
2 Q Do you think it was before January 2000 when
3 you put the moratorium in place?
4 A I -- I really don't know.
5 Q Do you recall what your nephew was wearing?
6 Was he wearing a coat when he came to talk to you?
7 A I -- I can remember him come flying -- I was
8 at the shop. He come flying in all excited that there was a
9 -- he had maybe a chance to get the property, but I -- I
10 can't recall when.
11 Q Let me ask you this: We talked a moment ago
12 or so about Mr. Newton's bills. You said you review the
13 bills at the township meetings?
14 A Did I say that?
15 Q I believe you did.
16 A I think I said that the -- the bills were
17 brought to the township meeting to be looked at by the
18 supervisors and -- which authorize payment, yes.
19 Q Do you know where the bills are kept then?
20 A I assume the township office.
21 Q So they're kept by Ms. Wirth?
22 A Yes.
23 Q Does she have a file, do you know? Does she
24 keep a collapsible folder or something like that or --
25 A What I know is the supervisors paid for two, I

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1 believe they're four-drawer, filing cabinets because
2 whenever we go into all the flood issues we had no storage
3 room for records, to keep all the flood records and things
4 and -- we had no place to keep those.
5 Q I see.
6 A Which was -- geez, I forget. How could I
7 forget that? The flood when we lost the bridges, five years
8 ago.
9 Q Ninety-six?
10 A Yes.
11 Q The big flood that came through here as
12 well --
13 A Yes, yes.
14 Q -- in '96, the winter, February?
15 A Exactly. I had been a supervisor one month
16 and disaster hit, yes. What a learning experience.
17 Q That's right. Now, at the time you were doing
18 the excavation work for Mr. Corneal, did you discuss Mr.
19 Corneal's intent to subdivide with the other township
20 supervisors?
21 A I don't recall.
22 Q Did you discuss it with Miss Wirth?
23 A I don't believe.
24 Q Even in passing, even just casually?
25 A It's possible that it -- I said something

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1 about it because as soon as people see me coming with a
2 backhoe -- it's a small community and -- what are you doing
3 over there. And it's possible that I said in passing to
4 somebody that, well, I think Mr. Corneal is going to
5 subdivide his property. I -- I think -- if that happened,
6 it happened that way, just as a casual thing. I don't -- I
7 don't really recall.

8 Q Mr. Wilson, you subdivided some property not
9 too long ago; isn't that correct?

10 A Yeah, I had approximately 12 acres that was
11 subdivided before I became a supervisor. My -- I have two
12 sons and for sons to get mortgages to build homes for their
13 families they have to own land so I had the property
14 subdivided.

15 Q So you divided your 12 acres into how many
16 lots?

17 A Three.

18 Q Now, I think you testified that that was
19 subdivided before you became a supervisor, correct?

20 A Yes.

21 Q But you also said you became a supervisor in
22 1996, correct?

23 A Yes.

24 Q Well, I'm going to show you a document that we
25 will mark as Wilson 3 and I'll just ask you to look it over.

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1 County Planning Commission has to review every
2 subdivision --

3 A Right.

4 Q -- proposed subdivision within Jackson
5 Township before the supervisors will approve it; is that
6 correct?

7 A Yes.

8 Q Well, let's look back further on this
9 document. Two Corneal entries are on this document. Do you
10 see them on the second page, one is --

11 A Yes.

12 Q -- dated February 10, 2000 and one is dated
13 April 11, 2000, right?

14 A Yes.

15 Q Are those the dates of the submission of the
16 subdivision plan to the township?

17 A I don't know.

18 Q Is this the date they were reviewed by the
19 county, do you know?

20 A I don't know.

21 MS. MONTGOMERY: Just let the record reflect
22 that there was some discussion going on between Mr. Wilson
23 and his counsel.

24 MR. SHERR: And for the record, I was showing
25 Mr. Wilson my doodles and my pad.

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1 (Subdivisions reviewed by HCPC produced and
2 marked as Wilson Exhibit No. 3.)

3 BY MS. MONTGOMERY:

4 Q Do you see about two-thirds of the way down
5 this document -- which is a list of subdivisions reviewed by
6 the Huntingdon County Planning Commission, correct?

7 A Yes.

8 Q Do you see your name, W. Thomas Wilson there?

9 A Yes.

10 Q And the date is September 3rd, 1997?

11 A Yes.

12 Q So maybe you were just mistaken about when you
13 subdivided?

14 A A mistake?

15 Q Well, I think you said you subdivided it
16 prior to --

17 A To becoming a supervisor.

18 Q Right. But this is a list of subdivisions
19 reviewed by the Huntingdon County Planning Commission which
20 has you dated -- the date is September 3rd, 1997. Is it
21 possible that you began the process of subdivision prior to
22 becoming a supervisor and finished it afterwards?

23 A Oh, no, that was all complete before I became
24 a supervisor.

25 Q Now, it's my understanding that the Huntingdon

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1 MS. MONTGOMERY: For the record, he was
2 showing Mr. Wilson his yellow legal pad.

3 MR. SHERR: I was showing him the doodles on
4 my legal pad, that's correct.

5 BY MS. MONTGOMERY:

6 Q So when you say that the subdivision was
7 completed before you became a township supervisor, you mean
8 that you'd already recorded the deeds and all that?

9 A I don't know when the -- my son's recorded
10 their deeds.

11 Q But you'd already conveyed the deeds to them,
12 that's what you mean by the subdivision being completed?

13 A Well, I know it was before I was a supervisor
14 because I had to deal with Koch, Wilson and Weiler as
15 supervisors when I submitted my subdivision plan.

16 Q So you submitted it to them and they approved
17 it?

18 A No. Well, they approved it, but it -- I
19 didn't -- it didn't happen right away. DEP and county,
20 every --

21 Q So did your sons begin to build their homes
22 before you became a township supervisor?

23 A Yes.

24 Q They did. Were they completed before you
25 became a township supervisor?

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1 A No.
2 Q No?
3 A **They're still not done.**
4 Q Were they living -- I understand.
5 A Yes.
6 Q Were they living in them before you became a
7 township supervisor?
8 A Yes.
9 Q Both of them?
10 A Yes.
11 Q Now, you were talking earlier about the fact
12 that it's a small community and people saw you with the
13 backhoe and they'd say, you know, what are you doing up
14 there. So that's what makes you think you probably told
15 people what you were doing up on the Corneal property,
16 right?
17 A **I guess that, yes. I --**
18 Q Is it your belief that people generally knew
19 that Mr. Corneal was looking to subdivide his property up
20 there around that 1999 time frame?
21 A **I don't think so.**
22 Q You don't think so. Do you think the township
23 supervisors generally knew it?
24 A **I don't know that.**
25 Q Do you think the sewage enforcement officer

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1 A Yes.
2 Q Did he come out and look at the property that
3 you subdivided?
4 A Yes.
5 Q Did he perform the perc tests?
6 A **Probes and percs.**
7 Q So Eagle Excavating did the probes and percs
8 and all that as well?
9 A **I don't remember.**
10 Q You don't remember the process?
11 A **No. The only thing that comes to mind is Judy**
12 **Passmore did the designs for the septic systems.**
13 Q Did she do that after you got an approved
14 sewage module?
15 A **I don't remember.**
16 Q Did she do it after you got approved test
17 sites?
18 A **I'm sure because she had to have the work-up**
19 **sheets to do that.**
20 Q She had to have approved test sites in order
21 to make the design, correct?
22 A Yes.
23 Q Do you recall talking with Larry Newton at all
24 about Mr. Corneal's intent to subdivide the property around
25 the time that you were performing the excavation work out

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1 knew it?
2 A **Well, he did the sewage work. I'm assuming,**
3 **yeah. I --**
4 Q What about Ann Wirth, do you think she knew
5 it?
6 A **I don't know.**
7 Q During that period of time that you were doing
8 the test pits up there and the perc tests, do you recall
9 anybody expressing any concern about Mr. Corneal's intent to
10 subdivide?
11 A No.
12 Q Do you recall anybody saying anything about --
13 anything about it, like, you know, oh, there's another
14 property owner here, he's going to break his property up
15 into some lots or anything like that?
16 A No.
17 Q Let's go back to when you subdivided your
18 property and you submitted a plan, right, to the township --
19 A Yes.
20 Q -- supervisors? Were there sewer modules
21 attached to your plan?
22 A **I don't remember.**
23 Q Do you recall whether Barry Parks came out and
24 did -- was Barry Parks the sewage enforcement officer at the
25 time?

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1 there?
2 A No.
3 Q You don't think you talked to him about it?
4 A No.
5 Q Does your nephew work for anybody besides you?
6 A **I believe so.**
7 Q Who else does he work for?
8 A **Mr. Powell has a dairy farm on Powell Road. I**
9 **-- he spends a lot of time there so I assume he's a**
10 **part-time helper. I -- I'm speculating. I shouldn't do**
11 **that.**
12 Q That's okay. Do you know how much money your
13 nephew needed to come up with to buy the Corneal -- the
14 26-acre piece from the Corneals with the farmhouse on it?
15 A **He told me but I don't remember.**
16 Q Do you know if he discussed it with anybody
17 else in your family?
18 A No.
19 Q Do you know John Hewett?
20 A Yes.
21 Q How do you know John Hewett?
22 A **John Hewett had me do some work at his**
23 **property.**
24 Q Where is his property?
25 A **Property in Mooresville.**

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1 Q Mooresville, is that in Jackson Township?
2 A No.
3 Q It's in --
4 A West, I believe.
5 Q Is it in Huntingdon County?
6 A Yes.
7 Q Is he a native of that area?
8 A I don't know.
9 Q So he had you perform his work -- some work at
10 his property there. When was that?
11 A A couple years.
12 Q Did you have occasion to discuss with John
13 Hewett the fact that Mr. Corneal was looking to sell off a
14 piece of his property with the farmhouse on it?
15 A In working at his property down there digging
16 out -- he raises flowers. And digging those things out, I
17 may have discussed with him -- because he was asking about
18 where can he find a place where he can grow flowers, open
19 fields, you know, and I may -- I may have said something
20 that there's a possibility that there's going to be some
21 property for sale in Jackson Township. I --
22 Q Do you think you had that conversation with
23 him?
24 A It could have happened. It could have
25 happened.

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1 Q When would that have been?
2 A I don't remember.
3 Q Was it around the time you were doing the work
4 for Mr. Corneal at his property, the excavation work?
5 A I believe before that.
6 Q So you knew that Mr. Corneal was looking to
7 sell off that 26-acre piece before you did the excavation
8 work?
9 A No, I -- other than my nephew checking that, I
10 don't know how he became aware that he had that up for
11 sale. I don't remember that, but that sort of led me onto
12 the idea, I guess, that maybe Hewett would be interested in
13 raising his flowers there in those open fields.
14 Q So in any event, at some point John Hewett
15 became interested in Mr. Corneal's 26-acre piece and
16 farmhouse, correct?
17 A Yeah, I -- I don't recall if I told him to
18 give David a call. I just don't -- I don't remember.
19 Q Do you recall when you first became aware that
20 John Hewett did in fact enter into an agreement with Mr.
21 Corneal to purchase that piece of property?
22 A I don't -- I don't recall when.
23 Q Do you recall whether it was before or after
24 your nephew expressed his interest in the property?
25 A After.

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1 Q So then after your nephew expressed his
2 interest, then the Hewetts -- then you found out the Hewetts
3 had entered into an agreement to purchase it?
4 A Well, I didn't -- I didn't know they -- that
5 they had gone into an agreement to purchase that.
6 Q When did you find out that they had gone into
7 an agreement to purchase it?
8 A When they started coming to supervisor's
9 meetings.
10 Q When they started coming to supervisor's
11 meetings?
12 A Yes.
13 Q Do you know when that was?
14 A No, I don't.
15 Q Was it before or after you put the moratorium
16 in place in January?
17 A I don't remember.
18 Q So you testified that the Hewetts started to
19 come to township meetings and you think that that was after
20 they became interested in buying that piece of property from
21 Mr. Corneal, correct?
22 A I believe that.
23 Q Did you have occasion to talk with the Hewetts
24 about their interest in the property then around the time
25 they were coming to the township meetings?

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1 A No.
2 Q Even at the township meetings you didn't talk
3 to them?
4 A I may have talked to John and -- I forget her
5 name. They introduced themselves with the pretense that
6 they hoped to be citizens of Jackson Township and wanted to
7 know the local officials and things like that, but I -- I
8 can't -- I can't say right now that I knew at that time that
9 he had some kind of a work-up with Mr. Corneal. I -- I
10 don't know that.
11 Q Well, was it your understanding when they
12 introduced themselves as people who were probably going to
13 be citizens of Jackson Township that that was going to be in
14 connection with the Corneal property?
15 A I assumed that.
16 Q Do you recall Mr. Hewett speaking at the
17 township meetings other than introducing himself?
18 A No.
19 Q Not ever?
20 A Never.
21 Q Did he ever speak to you outside the township
22 meeting about anything in connection with his intent to
23 purchase the Corneal property?
24 A I don't remember that.
25 Q What about his -- I guess girlfriend or

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1 partner, whatever you would call her, do you recall speaking
2 with her at all?
3 **A Just shook her hand at a meeting. I -- if**
4 **she'd walk in here, I wouldn't even know her.**
5 **Q** Do you know how many meetings they came to?
6 **A No.**
7 **Q** Did you ever discuss the moratorium with the
8 Hewetts? We call them the Hewetts, even though it's been
9 represented to us that they are not married, but they are a
10 couple, I think everybody agrees.
11 **A No.**
12 **Q** You never discussed the moratorium with them?
13 **A No.**
14 **Q** Did you ever discuss the proposed subdivision
15 ordinance with them before it was enacted?
16 **A No.**
17 **Q** What about the completed subdivision ordinance
18 after it was enacted?
19 **A They were at the meetings when those things**
20 **were discussed, which was when the moratorium was on and the**
21 **subdivision was being -- through its final stages in early**
22 **2000.**
23 **Q** Do you recall when the subdivision ordinance
24 was enacted?
25 **A 10th of July, 2000.**

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1 **Q** So the moratorium was put in place January
2 4th, 2000 and what's that, seven months later the proposed
3 ordinance -- the ordinance was actually enacted?
4 **A Yes.**
5 **Q** And they were at meetings, are you saying,
6 between January 4th and the date that the proposed ordinance
7 was actually enacted?
8 **A Yes.**
9 **Q** Did they come to any meetings after that?
10 **A I don't believe.**
11 **Q** Did they ever make a phone call to you and
12 say, hey, what's going on with the proposed subdivision
13 ordinance?
14 **A No.**
15 **Q** Did they ever make -- to your knowledge did
16 they ever call any of the other township supervisors to
17 express any concern about the moratorium?
18 **A I don't know.**
19 **Q** Did anybody call them and tell them, hey,
20 there is going to be a moratorium in place so don't count on
21 purchasing Mr. Corneal's property?
22 **A No.**
23 **Q** Do you know whether Ann Wirth called them and
24 talked to them?
25 **A I don't know that.**

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1 MS. MALADY: Could we take a break?
2 MS. MONTGOMERY: Yes.
3 (Break taken at 10:35 a.m. until 10:45 a.m.)
4 BY MS. MONTGOMERY:
5 **Q** Do you recall, Mr. Wilson, whether or not the
6 Hewetts complained directly to you about the effect that the
7 moratorium was having on their ability to purchase the
8 Corneal property?
9 **A No.**
10 **Q** Do you recall offering them a farmhouse that
11 you had that they could perhaps rent, a farmhouse that you
12 had?
13 **A That discussion was at a meeting, when Mr.**
14 **Corneal at the township meeting said that there was a**
15 **problem there and he needed -- those people needed to get in**
16 **there and I suggested why don't you rent them the farmhouse.**
17 **Q** Oh, I see. You mean why doesn't --
18 **A He rent his farmhouse.**
19 **Q** -- Mr. Corneal rent the farmhouse to them?
20 **A Yes.**
21 **Q** Until what?
22 **A Until the ordinances and stuff were in place**
23 **and his subdivision was approved.**
24 **Q** Do you recall what meeting that was?
25 **A No.**

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1 **Q** Was that last year, was it like in -- after
2 the moratorium went in place obviously so it was after
3 January 2000?
4 **A It was sometime in that -- that span,**
5 **moratorium until enactment of the ordinance.**
6 **Q** Well, that just goes to my earlier question
7 which was whether or not you became aware of the fact that
8 Mr. Hewett was concerned about the effect the moratorium was
9 having on him. Does that help you remember that you were
10 aware that Mr. Hewett was concerned?
11 **A That discussion was at the meeting.**
12 **Q** It was at a township meeting?
13 **A Yes.**
14 **Q** Do you recall any more details about that
15 discussion?
16 **A They were concerned of losing their -- what**
17 **word do I want to use, their --**
18 **Q** Sales agreement?
19 **A Sales agreement or agreement they had with Mr.**
20 **Corneal because they were afraid that the ordinance wasn't**
21 **going to get passed in time.**
22 **Q** For them to go through with the purchase of
23 the farmhouse --
24 **A Yes.**
25 **Q** -- and 26 acres? Do you know what eventually

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1 did happen with respect to that sales agreement?
2 **A The only thing I know is they bought property**
3 **somewhere else. I don't know what happened with --**
4 **Q Do you know why they didn't purchase Mr.**
5 **Corneal's property?**
6 **A Someone said that -- and I -- I shouldn't do**
7 **that. No, I don't know.**
8 **Q Well, this is a discovery deposition so any**
9 **facts or information or memory that you have is useful.**
10 **A Well, I don't -- I don't know who told me that**
11 **they had taken their agreement away or something from Mr.**
12 **Corneal and were going to buy the Rosdil property, I**
13 **believe.**
14 **Q Is that in Jackson Township?**
15 **A Yes.**
16 **Q Did they tell you -- did that person tell you**
17 **why they were taking that property -- or they were, as you**
18 **said, taking the agreement away from Mr. Corneal?**
19 **A No.**
20 **Q Do you have any idea why they decided not to**
21 **go through with that sale?**
22 **A The only thing I got from -- John called me**
23 **whenever he was buying another piece of property and wanted**
24 **to know if I could do some work for him there so he could**
25 **get his flowers planted. I --**

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1 **Q Did he talk with you at that time about the**
2 **Corneal property?**
3 **A No.**
4 **Q Did he talk with you about the subdivision**
5 **ordinance?**
6 **A I don't remember.**
7 **Q I'm not sure if I asked you this before, but I**
8 **need to ask you now. Is it your understanding that before**
9 **the board of supervisors can approve a subdivision ordinance**
10 **-- I'm sorry, a subdivision plan, that that plan has to go**
11 **to the Huntingdon County Planning Commission first?**
12 **A Absolutely.**
13 **Q Then it comes back to the board of supervisors**
14 **and then they can approve it finally?**
15 **A It has a stint with the DEP too.**
16 **Q After the board of supervisors approves it,**
17 **then the property owner can complete the subdivision and**
18 **begin building, assuming all the permits are in place,**
19 **correct?**
20 **A Can record the subdivision in the office in**
21 **the courthouse in Huntingdon and proceed on.**
22 **Q If the subdivision has already occurred, can**
23 **they go ahead and -- can the property owner go ahead and**
24 **apply for building permits and get moving on it?**
25 **A That was the sticking point, I believe, at**

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1 **some of the meetings because the subdivision had never been**
2 **approved and Mr. Corneal wanted building permits and he had**
3 **no sewage permits. So there was nothing issued.**
4 **Q Let me just go back a second. If the property**
5 **had already been subdivided prior to the time that you had**
6 **your subdivision ordinance in place, could then Mr. Corneal**
7 **have gone and applied for his sewage permits and his**
8 **building permits?**
9 **A If Mr. Corneal would have brought his**
10 **subdivision in before the end of '99, as I had suggested to**
11 **him, that it would be easier to get it before the new**
12 **regulations were in place, everything would have gone right**
13 **through, but things are -- things are a little different now**
14 **with an ordinance.**
15 **Q But when he brought his subdivision plan in**
16 **there wasn't any ordinance, was there?**
17 **A When he brought his subdivision plan in?**
18 **Q When he brought his subdivision plan into the**
19 **board of supervisors there wasn't any subdivision ordinance,**
20 **was there?**
21 **A No subdivision ordinance, right.**
22 **Q Did you want to look at that document for some**
23 **reason?**
24 **A No, just to clarify my mind.**
25 **Q On the date that Mr. Corneal brought his**

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1 subdivision ordinance to --
2 **MR. SHERR:** That document being what has been
3 previously marked as Wilson Number 3.
4 **BY MS. MONTGOMERY:**
5 **Q Are you satisfied that you're correct in your**
6 **earlier statement?**
7 **A There was no subdivision in Jackson Township.**
8 **I'm satisfied with that.**
9 **Q No subdivision ordinance you mean?**
10 **A No subdivision ordinance, yes.**
11 **Q When Mr. Corneal brought his subdivision plan**
12 **to the township?**
13 **A No, when he brought it to the township there**
14 **was a moratorium on.**
15 **Q But no subdivision ordinance?**
16 **A Right.**
17 **Q I have a question for you about -- I want to**
18 **go back for just a second to the sequestration order that's**
19 **in place. This morning did you have an opportunity to speak**
20 **with anybody about these depositions?**
21 **A No.**
22 **Q About your deposition?**
23 **A No. Well --**
24 **Q You said no. Okay, fine. When you got here**
25 **this morning, what did you do?**

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1 MR. SHERR: If you need to explain your prior
2 answer, feel free to do that.
3 MS. MONTGOMERY: I'm sorry, I didn't mean to
4 cut you off.
5 THE WITNESS: Well, I discussed when I left
6 the shop this morning with my son that I had -- I was
7 probably going to be gone all day at depositions. And of
8 course coming down here, as soon as I come in, I set down
9 and then Tony showed up and we asked to have a conference
10 with our attorney and we did that and then it was time to
11 come down here.
12 BY MS. MONTGOMERY:
13 Q Who was all involved in that conference?
14 A **Ann Wirth, Mike Yoder and myself and counsel.**
15 Q That was this morning here in this office?
16 A **Yes.**
17 Q Where did you go to have that conference?
18 A **A-3? Yeah.**
19 Q Into a conference room?
20 A **Yes.**
21 Q And did you discuss your deposition at that
22 conference?
23 MR. SHERR: Objection as to anything that was
24 discussed at that meeting.
25 MS. MONTGOMERY: Well, you're under a court

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1 order not to discuss the depositions with the other
2 defendants.
3 MR. SHERR: Attorney/client privilege. I'm
4 under a court order not to discuss the substance of
5 depositions and we're following the court order. So if you
6 think --
7 MS. MONTGOMERY: Well, you don't need to coach
8 the witness.
9 MR. SHERR: -- that that abrogates the
10 attorney/client privilege, then let's go talk to the judge
11 about it.
12 MS. MONTGOMERY: We shall.
13 MR. SHERR: All right, let's do it right now.
14 That will be the end of this deposition until we talk to the
15 judge. Come on.
16 MS. MONTGOMERY: Are you going to call the
17 judge?
18 MR. SHERR: Well, let's go over -- I'll call.
19 MS. MONTGOMERY: You can ask her.
20 MR. SHERR: You want -- if you want to
21 abrogate the attorney/client privilege --
22 MS. MONTGOMERY: You want to call. What's
23 your question going to be?
24 MR. SHERR: My question is going to be whether
25 or not it was proper to assert the attorney/client privilege

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1 where I just did.
2 MS. MONTGOMERY: Go ahead and call her.
3 MR. SHERR: I don't need to call her. If you
4 don't need to call her, I don't need to call her.
5 MS. MONTGOMERY: You just said you wanted to
6 call her.
7 MR. SHERR: No, if you question whether or not
8 it was proper for me to assert the attorney/client privilege
9 or if you were going to ask him more questions about what
10 was discussed --
11 MS. MONTGOMERY: Could you read back the last
12 say three questions. You have to go back to when -- can you
13 do that? Would that be too much of a problem?
14 (The reporter read back as follows:
15 "QUESTION: I have a question for you about
16 -- I want to go back for just a second to the sequestration
17 order that's in place. This morning did you have an
18 opportunity to speak with anybody about these depositions?
19 ANSWER: No.
20 QUESTION: About your deposition?
21 ANSWER: No. Well --
22 QUESTION: You said no. Okay, fine. When you
23 got here this morning, what did you do?
24 MR. SHERR: If you need to explain your prior
25 answer, feel free to do that.
QUESTION: I'm sorry, I didn't mean to cut you
off.
ANSWER: Well, I discussed when I left the
shop this morning with my son that I had -- I was probably
going to be gone all day at depositions. And of course
coming down here, as soon as I come in, I set down and Tony
showed up and we asked to have a conference with our
attorney and we did that and it was time to come down here.
QUESTION: Who was all involved in that
conference?
ANSWER: Ann Wirth, Mike Yoder and myself and
counsel.

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1 QUESTION: That was this morning here in this
2 office?
3 ANSWER: Yes.
4 QUESTION: Where did you go to have that
5 conference?
6 ANSWER: A-3? Yeah.
7 QUESTION: Into a conference room?
8 ANSWER: Yes.
9 QUESTION: And did you discuss your deposition
10 at that conference?"
11
12 MS. MONTGOMERY: And the objection is?
13 MR. SHERR: I stated the basis for it,
14 didn't I?
15 MS. MONTGOMERY: I just wanted to hear it so
16 we're clear about it. Can you tell me what the objection
17 was?
18 MR. SHERR: Just so we're clear, since we were
19 talking over each other, the objection was based on
20 attorney/client privilege.
21 BY MS. MONTGOMERY:
22 Q Who asked for that court conference?
23 MR. SHERR: Excuse me? Objection. Who asked
24 for what conference?
25 BY MS. MONTGOMERY:
Q I'm sorry, who asked for that conference here
this morning in this office?
A **I did.**
Q **You did?**
A **Yes.**

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1 Q All right. Do you know why Miss Wirth
2 accompanied you into that conference?
3 A Yes.
4 Q Why?
5 MR. SHERR: I'll caution you not to discuss
6 anything that was discussed during the conference in my
7 presence because it's privileged by the attorney/client
8 privilege.
9 THE WITNESS: No comment.
10 BY MS. MONTGOMERY:
11 Q Did you discuss with Miss Wirth prior to your
12 attorney being here why she would come into the conference
13 with you?
14 A Yes.
15 Q And what was the nature of that discussion?
16 A We're concerned about the welfare of one of
17 our supervisors that's -- and we'd like to see him
18 dismissed.
19 Q From this case?
20 A From deposition, that's ...
21 Q You're talking about Mr. Weiler?
22 A Yes. He's not well and that's why I called
23 that this morning because I'm afraid the man will die and I
24 don't want to do that.
25 Q And what is wrong with Mr. Weiler?

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1 A He's got a bad heart and he's trying to take
2 care of his sister, too, and she's dying of cancer.
3 Q How old is Mr. Weiler?
4 A Seventy-two.
5 Q Does he work?
6 A No.
7 Q Is he retired?
8 A Yes.
9 Q Does he still attend township supervisor
10 meetings?
11 A Yes.
12 Q When was your last township supervisor
13 meeting?
14 A They're always the first Monday of the month.
15 I -- I don't know.
16 Q Was there any kind of a meeting this week of
17 the township supervisors?
18 A If it was the first Monday -- I'm sorry.
19 Q You don't recall?
20 A I don't recall.
21 Q Did you have some sort of a meeting with Barry
22 Parks this week?
23 A No.
24 Q Was Mr. Weiler at the last township meeting?
25 A Yes.

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1 Q Where does he live?
2 A Up Allan Seegar Road, approximately five miles
3 from the fire hall.
4 Q So he travels to the fire hall for the
5 township meetings?
6 A Yes.
7 Q In the evenings?
8 A Yes.
9 Q And what's the matter with Mr. Weiler's heart?
10 A He's had two heart attacks and he's got a lot
11 of fluid and he has to wear oxygen at night because they're
12 afraid he's going to have a --
13 Q I'm sorry, he has to wear what at night?
14 A Oxygen.
15 Q Oxygen?
16 A Yeah, for -- to sustain him through the
17 night. They think he'll just die. So I'm concerned.
18 Q Having told me that, I still need to ask you
19 the question why you decided that Miss Wirth had to
20 accompany you to that meeting?
21 A All three of us were in that meeting.
22 Q That still doesn't explain why Miss Wirth had
23 to accompany you into the meeting.
24 A Miss Wirth calls him several times a day to
25 make sure he's okay and his sister is okay.

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1 Q With respect to Miss Wirth's interaction with
2 the township supervisors, does she pretty much do everything
3 with the township supervisors? Does she accompany you on
4 all of your say outings and jaunts, wherever you have to go,
5 if you have to go up and see the township solicitor and
6 stuff like that?
7 A Yes.
8 Q Does she come to every meeting with the
9 township solicitor that you can think of?
10 A Yes.
11 Q Why is that?
12 A Because I can't remember things and I -- we --
13 I'm sorry, we depend on her to take notes and keep us
14 apprised of what I said or did or something I --
15 Q Is she pretty much involved in every event or
16 task or undertaking that occurs among the township
17 supervisors then?
18 A We burden her with all the letters,
19 correspondence, calls that have to be made. We -- that is
20 her duty, we assume, yes.
21 Q Do you recall whether you discussed the
22 agreement of sale between John Hewett and the Corneals --
23 well, I should say the Hewetts and the Corneals with Larry
24 Newton?
25 A No.

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1 Q You don't think you discussed that with them?
2 A No.
3 Q Did you ever tell them anything about the fact
4 that the Hewetts had abandoned that agreement of sale at any
5 time?
6 A No.
7 Q Do you know anything about a Department of
8 Environmental Protection or any other governmental complaint
9 that was filed against the Corneals in connection with their
10 property?
11 A I know of no formal complaint.
12 Q Do you know of an investigation that was
13 performed by any governmental entity in connection with
14 wetlands on their property?
15 A Yes.
16 Q What do you know about it?
17 A When the -- Mr. Corneal took his subdivision
18 into county planning to have it reviewed to get his -- as we
19 suggested, as a jump ahead, a letter is -- comes out of
20 there from the review and on that letter it's noted -- which
21 is why the township uses the county planning to oversee the
22 county and how it goes to the comprehensive plan. It was
23 listed that there were steep slopes and hydric soils in
24 association -- those are usually associated with wetlands.
25 This is standard procedure with all our

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1 second opinion on that?
2 A There aren't any, is that what you asked me?
3 Q Yes.
4 A I'm sorry.
5 Q If the sewage enforcement officer says there's
6 no wetlands on the property, do you always go and get
7 somebody else to tell you whether that's correct or do you
8 accept his word for it?
9 A No. No, that report will come from the
10 county.
11 Q Well, let's look a second. I mean, as you
12 understand it, is there an entry on the form sewage
13 facilities planning module that comes from the Commonwealth
14 for checking off whether or not there are wetlands, as you
15 understand it?
16 A I believe that you -- the sewage officer
17 checks that off.
18 Q Right. So that's really what I'm asking you.
19 A That's correct, he checks that off, but when
20 -- the whole subdivision plan comes from just the areas
21 that he has done his site work, he sees no wetlands, okay,
22 but whenever the overall plan is reviewed by the county,
23 where they have the big maps, if they see that there's
24 something there that was walked by or around or there's a
25 hollow or something there that the sewage officer really

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1 subdivisions. Those readouts come to us and I'm sure Mr.
2 Corneal got one too because on the carbon at the bottom --
3 there's carbon copies of who all it got too.
4 And those things we have to investigate as a
5 township because of the situation we're in. We're in a high
6 quality stream area, prominent trout streams, and we work
7 closely with the soil conservation district. And every
8 chance we get, we get money from them to help with our roads
9 and stuff and we need -- we need to keep that cooperation
10 going because we need that money. So we look after our
11 environment, that's ...
12 Q What about -- let's see, who do you typically
13 rely upon to tell you whether or not there's wetlands on a
14 property that an individual seeks to build --
15 A The conservation district.
16 Q What about the sewage enforcement officer?
17 A He may say that there's some there, but that
18 isn't our final authority to clear -- to satisfy us. The
19 conservation district does that.
20 Q So typically if you get a -- say a request for
21 a building permit or a proposed subdivision plan in which
22 the sewage enforcement officer has already done a site
23 investigation and percolation test report, okay, and on that
24 test report there's an indication that there aren't any
25 wetlands, do you then always go and ask somebody else for a

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1 didn't have any business in there, he isn't looking for
2 suitable sites, then it's handled by the conservation
3 district.
4 Q So why don't you hold on to that exhibit which
5 is Wilson Exhibit 2, right?
6 A Yes.
7 Q And let's look at the place on there where
8 there's a place for the sewage enforcement officer to check
9 on whether or not there's going to be any wetlands affected
10 by the construction of a proposed -- construction of a
11 sewage system at a proposed site, okay. So we have a space
12 for that on here, right, on page 2; isn't that correct? Do
13 you see that?
14 A Yes.
15 Q It's Question 1.3, right?
16 A Yes.
17 Q Actually that wasn't the one, I'm sorry. When
18 you looked at this sewage module for the Corneal's property
19 and under those questions it says -- for example, 1.3, will
20 any work associated with this project take place within 50
21 feet of a stream, waterway or wetland and it's checked yes,
22 correct?
23 A Yes.
24 Q Now, it says stream, right, on the other side
25 of it?

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1 A Um-hum.
2 Q Correct? Did you express any concern to the
3 SEO about that?
4 A I never seen this before today.
5 Q You never saw this before today?
6 A No.
7 Q It wasn't submitted with Mr. Corneal's
8 initial --
9 MR. SHERR: I'm going to object to both
10 attorneys asking questions.
11 MS. MALADY: I'm sorry.
12 MS. MONTGOMERY: She's talking to me.
13 MR. SHERR: Well, she's talking out loud and I
14 think that has to be placed on the record if she's thinking
15 out loud at a deposition.
16 BY MS. MONTGOMERY:
17 Q The sewage facilities planning module was not
18 attached to any subdivision plan that Mr. Corneal submitted
19 to the township?
20 A I've never seen the subdivision plan.
21 Q Did Mr. Corneal try to hand you a subdivision
22 plan at a township meeting one time?
23 A He laid a subdivision plan on the desk on the
24 table at our meeting -- oh boy, February? And he was
25 informed that there was no subdivisions being reviewed at

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1 this time because of the moratorium and he suggested that --
2 someone suggested to him, one of the supervisors or -- that
3 if he -- it had to go to the -- the Huntingdon County
4 Planning to be reviewed anyhow and if he wanted to have a
5 step up while we're working on the ordinance to take it in.
6 I -- I seen it. I couldn't even tell you what it looks
7 like. He laid it down there and he picked it up and took
8 off with it.
9 Q Are you saying that he took the plan back with
10 him?
11 A Yes.
12 Q Did he try to get you to keep the plan?
13 A No.
14 Q He put it in front of you and you said we
15 don't want this plan right now, take it to the Huntingdon
16 County Planning Commission?
17 MR. SHERR: Object to the form of the
18 question. You're trying to misstate his testimony at this
19 time.
20 BY MS. MONTGOMERY:
21 Q You can correct me if I'm wrong, Mr. Wilson.
22 You told him we're not going to take your plan right now,
23 you should take it to the Huntingdon County Planning
24 Commission; is that correct?
25 A No.

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1 Q What was correct?
2 A It was -- it was suggested -- he wondered
3 about the procedure. It was suggested that to save time he
4 take it to Huntingdon County to have it reviewed, but still
5 no action can be taken on it until the supervisors sign it.
6 Q So I think what you're telling me is that it
7 may or may not have been attached to the subdivision plan
8 but you didn't look at the subdivision plan on the day that
9 he gave it to you; is that correct?
10 MR. SHERR: Objection. The question is
11 ambiguous and you didn't define what it is. You can answer
12 the question.
13 BY MS. MONTGOMERY:
14 Q Do you understand my question?
15 MR. SHERR: You can answer the question if you
16 understand the question.
17 THE WITNESS: There were no items attached to
18 that plan that he laid on the table and took off. I -- I
19 think he told us at the meeting when he laid it down it's
20 for five lots. I can't -- and that's -- that's ...
21 BY MS. MONTGOMERY:
22 Q So is what you're calling a plan just a map?
23 A Subdivision plan, a layout with all the
24 details, sewage, probes, percs, everything is on there,
25 wetlands, everything, streams, roads, yes.

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1 Q And you're saying that there were -- there was
2 nothing attached to that the day that he came to the
3 meeting?
4 A No, it was just a -- a piece of paper.
5 Q Just one piece of paper?
6 A Yes.
7 Q In any event, if the sewage enforcement
8 officer tells you that there are no wetlands on a piece of
9 property on which an individual is seeking to build and
10 place an on-lot septic system, do you accept his word for
11 it?
12 A Not if the county sends out its referral that
13 there's wetlands on that property.
14 Q Is that what happened with Mr. Corneal's
15 property?
16 A Yes.
17 Q The county came back and said there are
18 wetlands on that property?
19 A Yes.
20 Q Then did you call and file a complaint against
21 Mr. Corneal about an attempt to construct on property with
22 wetlands?
23 A No.
24 Q Did Ms. Wirth to your knowledge?
25 A No.

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1 Q Do you know how the Army Corps of Engineers
2 came to go out and do an investigation on Mr. Corneal's
3 property?
4 A I don't know.
5 Q Do you know that they did an investigation on
6 Mr. Corneal's property?
7 A Yes.
8 Q Do you know why they did an investigation on
9 his property?
10 A I talked to the director of the Huntingdon
11 County Conservation District after that because I got a -- I
12 personally received a call from the conservation district
13 and I asked Andy what happened, because we refer these to
14 Andy. He's in charge of the county.
15 Well, he was concerned because they'd already
16 issued -- which we didn't know. They told us at that time
17 issued a permit for a stream crossing and then we had this
18 wetland issue. So he assumed -- he didn't go out to look at
19 the -- he just issued the permit to -- I think he told me it
20 was McClintic. And after this alarm went off, he decided to
21 call in someone else to assist them with the evaluation of
22 that property.
23 Q So is it your belief, your understanding that
24 the Army Corps of Engineers showed up there because of
25 something the county did?

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1 A No, something that the conservation district
2 asked them to do.
3 Q You think the conservation district called the
4 Army Corps of Engineers and said you need to go do an
5 investigation?
6 A I assume that. I didn't call them.
7 Q Who did you talk to from the conservation
8 district about this?
9 A Andy Patterson.
10 Q And who is Andy Patterson?
11 A Director.
12 Q Director of -- what's your conservation
13 district?
14 A Huntingdon County.
15 Q Is that a county district or is it a federal
16 district or what?
17 A County.
18 Q And so you think that Andy Patterson called
19 the U.S. Army Corps of Engineers and had them come out?
20 A I don't know.
21 Q Do you know whether Miss Wirth called anybody
22 in connection with possible wetlands on Mr. Corneal's
23 property?
24 A I don't know.
25 Q Did you call anybody in connection with

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1 possible wetlands on Mr. Corneal's property?
2 A No.
3 Q Do you have any -- can you think of any other
4 instance wherein a sewage enforcement officer in Jackson
5 Township has been unconcerned about wetlands and the county
6 has expressed some concern about wetlands?
7 A No.
8 Q Can you think of another instance?
9 A No.
10 Q Just Mr. Corneal's instance?
11 A That's -- that's the only one I can think of.
12 Q Do you know of any instance at all when
13 anybody called any government agency and filed a complaint
14 about Mr. Corneal?
15 A No.
16 Q Did you ever discuss with Larry Newton the
17 denial of the Corneal -- or the refusal of the Corneal
18 subdivision plan?
19 A No.
20 Q Not ever, not even to this day?
21 A We're in litigation with Mr. Corneal, the
22 township.
23 Q You mean up in the county?
24 A Yes.
25 Q So you've discussed it with him in connection

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1 with that?
2 A Mr. Newton is aware that the subdivision is
3 not approved.
4 Q When did he become aware of that?
5 A I don't know.
6 Q If you're going to ask Mr. Newton for advice
7 on behalf of the township supervisors, do you call him or
8 does Miss Wirth call him?
9 A It depends.
10 Q Do you sometimes call him?
11 A Yes.
12 Q Have you ever called him for advice in
13 connection with the Corneal property?
14 A No.
15 Q Have you ever called him with a group of other
16 people for advice in connection with the Corneal property?
17 A No.
18 Q Have you ever directed anybody to call him for
19 advice in connection with the Corneal property?
20 A No.
21 Q Do you know whether anybody among the
22 township supervisors or Miss Wirth or the sewage enforcement
23 officer or anybody else connected with the township has
24 called Mr. Newton for advice in connection with the Corneal
25 property?

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1 A No.
2 Q You don't know or you think they haven't?
3 A I don't know.
4 Q What about in connection with the subdivision
5 ordinance, did you call him personally and ask him how you
6 ought to go about enacting a subdivision ordinance?
7 A No.
8 Q Do you know whether anybody else did?
9 A I don't know.
10 Q Do you know whether you heard from any of the
11 others in your group, your township supervisors, the
12 township secretary, Ann Wirth, the sewage enforcement
13 officer, anybody in the township governing body whether they
14 had gotten advice from Larry Newton about the subdivision
15 ordinance?
16 A I don't know.
17 Q What about the moratorium?
18 A I'm sorry?
19 Q What about the moratorium? Do you know
20 whether any of the township supervisors or the secretary or
21 the sewage enforcement officer or any other township
22 official sought advice from Mr. Newton about the moratorium?
23 A I don't know.
24 Q When you were going through with enacting the
25 ordinance, did you believe that you were doing it in

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1 accordance with the law?
2 A Yes.
3 Q How did you believe that?
4 A The Township Code and the Municipal Planning
5 Act.
6 Q Who studied that for you?
7 A Who studied that?
8 Q Yes.
9 A We have it. We read it.
10 Q So you read it and you thought that you were
11 doing the right thing?
12 A We did the right thing.
13 Q Did you actually sit down and open it up at
14 some point and say, gee, I better make sure I'm doing the
15 subdivision ordinance procedures correctly? Is that what
16 you did, or you just thought you knew them in your head or
17 what?
18 A Oh, no. Used the law to formulate what we
19 did, the code.
20 Q Let me ask you this: How long were you
21 considering enacting the subdivision ordinance as a body,
22 the township board of supervisors?
23 A We've been working on it for pretty near two
24 years.
25 Q So that means you've been working on it since

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1 -- well, you mean before it was passed you had been working
2 on it for two years?
3 A (Witness nods head affirmatively.)
4 Q So that would be sometime in 1998, correct?
5 A Yes.
6 Q What all did you do in connection with working
7 on enacting the subdivision ordinance?
8 A Attended -- attended all the sessions that
9 were available at the state convention, discussed with other
10 townships as to the procedure they followed and just kept
11 working at it and working at it and put it -- it finally got
12 to the county and they reviewed it and then they wanted some
13 changes. So it wasn't easy. It wasn't easy, but we have
14 it.
15 Q Did you make successive drafts of it?
16 A I think the -- the draft that was up that went
17 to the county -- the answer is yes, that's -- I'm sorry, I'm
18 a little slow.
19 Q Who typed up the drafts for you?
20 A I believe they were done in the township
21 office.
22 Q You think Miss Wirth typed them?
23 A If she didn't, she had somebody do it. I -- I
24 believe that. I didn't ask.
25 Q Did you send the draft ordinances to Larry

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1 Newton as they were being considered?
2 A No.
3 Q Do you know if anybody else sent the draft
4 ordinances to Larry Newton as they were being considered?
5 A I don't know.
6 Q Did you keep copies of the draft ordinances
7 available for the public to look at as it was under
8 consideration for that two year period?
9 A At several of our meetings the drafts were
10 available for the citizens and they were reviewed and they
11 had the opportunity to come to the township office to review
12 them as we were progressing along because we have some
13 citizens in the township that are very concerned with
14 heritage and they wanted to make sure that everything was
15 covered in there because of our quaint little villages and
16 buildings that are around there.
17 Q Now, if the draft ordinances were taken to a
18 township meeting and made available for the public, that
19 would be reflected in the minutes, correct?
20 A It should be reflected in -- yes.
21 Q Would you have put an advertisement or
22 anything in the paper to say at the township meeting we're
23 going to be circulating the proposed draft subdivision
24 ordinance so the public can come look at it?
25 A No.

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| | |
|---|---|
| <p style="text-align: right;">106</p> <p>1 Q So how would the public know that it was there</p> <p>2 to come look at it?</p> <p>3 A Public meeting every month.</p> <p>4 Q Just because it's a monthly public meeting?</p> <p>5 A Yes.</p> <p>6 Q So if there is something special going on at a</p> <p>7 public meeting, don't you usually put a notice in the paper?</p> <p>8 A Yes.</p> <p>9 Q But you didn't consider the circulation of a</p> <p>10 proposed draft subdivision ordinance something special that</p> <p>11 you needed to put the public on special notice of?</p> <p>12 A Not at those stages.</p> <p>13 Q Ultimately when you got your final subdivision</p> <p>14 ordinance completed in the form that you thought you could</p> <p>15 enact, did you then send it to Larry Newton --</p> <p>16 A Yes.</p> <p>17 Q -- for review? Do you know when you did that?</p> <p>18 A No.</p> <p>19 Q Do you know who did it?</p> <p>20 A Who delivered it to him?</p> <p>21 Q Yes.</p> <p>22 A I don't know.</p> <p>23 Q Do you have any memory whatsoever of which</p> <p>24 township supervisor first asked the board to consider a</p> <p>25 moratorium on development in the township?</p> | <p style="text-align: right;">108</p> <p>1 Q Was it after it was passed?</p> <p>2 A No.</p> <p>3 Q Do you think it was before it was passed?</p> <p>4 A We had to have their input to get the final</p> <p>5 draft.</p> <p>6 Q You did get some input from the Huntingdon</p> <p>7 County Planning Commission on that final draft?</p> <p>8 A Oh, yes.</p> <p>9 Q How much input did you get?</p> <p>10 A Pages I'm --</p> <p>11 Q Do you know what happened to those pages --</p> <p>12 what, was it comments or something written on the drafts</p> <p>13 that you sent?</p> <p>14 A They sent back the copy with recommendations</p> <p>15 of changes to the ordinance, additions, deletions, that type</p> <p>16 of thing.</p> <p>17 Q Do you know what happened to those drafts with</p> <p>18 the notes of the Huntingdon County Planning Commission?</p> <p>19 A No.</p> <p>20 Q Do you think they still exist somewhere?</p> <p>21 A I don't know.</p> <p>22 Q What about the driveway ordinance that you put</p> <p>23 in place in the township, did you send that to the</p> <p>24 Huntingdon County Planning Commission for its review?</p> <p>25 A No.</p> |
| <p style="text-align: right;">107</p> <p>1 MR. SHERR: Objection. It's been asked and</p> <p>2 answered. Sorry, I thought you were done. Objection, it's</p> <p>3 been asked and answered. You can answer it again.</p> <p>4 THE WITNESS: No.</p> <p>5 BY MS. MONTGOMERY:</p> <p>6 Q Did you send your proposal or a proposal for a</p> <p>7 moratorium to the Huntingdon County Planning Commission?</p> <p>8 A I don't know.</p> <p>9 Q Do you recall discussing it with the</p> <p>10 Huntingdon County Planning Commission at all prior to the</p> <p>11 time that you put it in place in January 2000?</p> <p>12 A No.</p> <p>13 Q Do you recall when you sent the final</p> <p>14 subdivision ordinance to the Huntingdon County Planning</p> <p>15 Commission for its review?</p> <p>16 A No.</p> <p>17 Q Do you recall that you did send it to the</p> <p>18 Huntingdon County Planning Commission for review? Do you</p> <p>19 recall sending it to the Huntingdon County Planning</p> <p>20 Commission for review at all?</p> <p>21 A Yes.</p> <p>22 Q When did you do that?</p> <p>23 A I don't remember.</p> <p>24 Q You just didn't remember exactly when?</p> <p>25 A (Witness shook his head negatively.)</p> | <p style="text-align: right;">109</p> <p>1 Q Why not?</p> <p>2 A I don't know.</p> <p>3 Q Prior to enacting the ordinance did the</p> <p>4 township charge residents fees when they put in a driveway,</p> <p>5 when the residents put in a driveway?</p> <p>6 A No.</p> <p>7 Q Was there any kind of a charge at all imposed</p> <p>8 upon a resident in connection with their construction of a</p> <p>9 driveway?</p> <p>10 A Before the ordinance?</p> <p>11 Q Before the ordinance.</p> <p>12 A None.</p> <p>13 Q Now, that wasn't -- you're saying the township</p> <p>14 didn't do it. Do you know whether anybody else did it?</p> <p>15 A No one else did it.</p> <p>16 Q Correct me if I'm wrong, you're saying that no</p> <p>17 one at all charged any sort of a fee in connection with the</p> <p>18 right to construct a driveway?</p> <p>19 A Before the ordinance?</p> <p>20 Q Before the ordinance.</p> <p>21 A No fee.</p> <p>22 Q In your capacity as Eagle Excavation Company,</p> <p>23 did you ever go out and inspect driveways after they were</p> <p>24 constructed?</p> <p>25 A I don't understand.</p> |

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1 Q Did you ever go out and inspect a driveway
2 just to see whether it was constructed properly through
3 Eagle construction?
4 A I'm --
5 Q Did you go out and inspect a driveway for
6 proper construction in the township through Eagle
7 construction?
8 A No.
9 Q Did you ever get involved at all in inspecting
10 driveways in the township?
11 A Not before I was a supervisor.
12 Q Well, since you were a supervisor, did you
13 ever get involved in inspecting driveways?
14 A I do them all. I'm the road master.
15 Q You do it all?
16 A Yes.
17 Q So as the road master did you go out and
18 inspect driveways?
19 A Yes.
20 Q Did you charge a fee in connection with that
21 inspection?
22 A No.
23 Q Did you charge anything for doing that?
24 A No.
25 Q So you just went out as the road master and

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1 wanted to construct a driveway that they had to come to the
2 board of supervisors for inspection of the driveway to make
3 sure it was satisfactory?
4 A There was no rule that that was done. If the
5 property owner didn't come to the meeting, their neighbor
6 soon was on the phone calling and saying, hey, there's
7 something going on over here and it should be checked.
8 That's the --
9 Q So what would you do, go out and check it?
10 A Yes.
11 Q So you'd say, okay, I got a call from a
12 neighbor, I better go out and check that driveway to make
13 sure it's being constructed properly, right?
14 A Yes.
15 Q And you did that prior to the enactment of the
16 driveway ordinance, correct?
17 A Yes.
18 Q You never charged any sort of fee or anything
19 in connection -- to anybody --
20 A No.
21 Q -- in connection with those inspections? Did
22 Eagle construction ever charge any sort of fee in connection
23 with those inspections?
24 A Not unless they were asked by the property
25 owner to install a pipe or put stone or something on there.

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1 said, well, I think your driveway is okay?
2 A And make suggestions of what they should do to
3 it, yeah.
4 Q Was that prior to the ordinance?
5 A Yes.
6 Q What authority -- I mean, I'm really just
7 trying to understand. What was the authority for your going
8 to inspect driveways as the road master?
9 A We live in a rural area. Everybody is --
10 knows everybody and everybody wants things as smooth as
11 possible. So if someone is putting in a driveway, they come
12 to the supervisor's meeting and say, you know, I want to put
13 a driveway in here. And we as a unit -- two or three of the
14 supervisors will go out to that site and look to see if it's
15 safe or not to have a driveway there. It was -- it wasn't
16 any law or anything. It's just -- it was just common
17 courtesy. We just -- it was a service.
18 Q Well, if you didn't think that the driveway
19 was okay, did you tell them they couldn't construct it as
20 the board of supervisors?
21 A No, we told them how they had to construct it.
22 Q So you told them how. And this was before the
23 ordinance, correct?
24 A Yes.
25 Q Did you let it be known that if a resident

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1 Not for -- not for looking at the site.
2 Q So if you went out and you said, okay, this
3 driveway isn't being constructed properly, would you direct
4 the resident to stop construction of the driveway?
5 A He was advised to construct it properly or the
6 next time the grader would come by he would lose his
7 driveway if it wasn't done to a standard.
8 Q Did you ever talk to your solicitor about
9 whether the township had the authority to oversee the way
10 people constructed their driveways without the enactment of
11 a driveway ordinance?
12 A No.
13 Q You never discussed it with Larry Newton?
14 A Never.
15 Q What about when you put your driveway
16 ordinance in place, did you send that to him for review?
17 A I don't remember.
18 Q So were you present at the meeting -- you were
19 present, I think you said, at the meeting of the board of
20 supervisors in January 2000 when the moratorium was put in
21 place, correct?
22 A Yes.
23 Q Who else was there?
24 A I'm lost. What do you -- do you mean in the
25 audience or --

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1 Q All --
2 A All three supervisors, the secretary, and I
3 don't recall who else. It would have to be -- it should be
4 in the -- on the minutes.
5 Q Do you recall what members of the public were
6 there? Were the Hewetts there?
7 A I don't recall.
8 Q Was Mr. Corneal there?
9 A No.
10 Q Do you recall whether there was any member of
11 the public there?
12 A Oh, yes, there was people there. I --
13 Q Can you estimate how many?
14 A Eight or 10.
15 Q You think there were eight or 10 people
16 there. And how many residents are there in the township?
17 A 816.
18 Q I think you indicated earlier that Mr. Corneal
19 had brought a subdivision plan in initially and you told him
20 he had to take it to the Huntingdon County Planning
21 Commission, there was a moratorium in place, correct?
22 A Correct.
23 Q Who spoke those words, you?
24 MR. SHERR: I'm going to object to the form of
25 the question in that there's never been any testimony that

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1 saying it was suggested to save him time he could take it to
2 the county.
3 Q Who told Mr. Corneal that?
4 A Maybe I did. I -- I don't know.
5 Q You don't recall which supervisor actually
6 talked?
7 A We all talk. We have a small community and we
8 all talk.
9 Q Was Miss Wirth talking, do you recall?
10 A I'm sure. Everybody --
11 Q Does Miss Wirth usually talk at the township
12 meetings a lot?
13 A When she's asked to.
14 Q When she's asked to by whom?
15 A The supervisors or if it's a question
16 concerning some correspondence or something, then somebody
17 from the audience might say, Ann, did you get my letter or
18 did you -- you know, that type of thing.
19 Q Does Miss Wirth give advice to the township
20 residents or the people in attendance at the township
21 meetings regarding what's proper and what isn't proper about
22 township business?
23 A Well, if she does, I -- I don't know what it
24 is because she's not an elected official. She's our
25 secretary.

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1 those words were spoken.
2 MS. MONTGOMERY: Well, he just said yes to the
3 answer to my question.
4 MR. SHERR: And his prior testimony was
5 different from that, that -- and that may have been the gist
6 of what was said, but I don't think he's ever testified --
7 MS. MONTGOMERY: I'm not --
8 MR. SHERR: Please just let me finish so we
9 don't talk over each other so she can get us both down.
10 Thank you.
11 MS. MONTGOMERY: I'm not going to allow you to
12 coach your witness on the record.
13 MR. SHERR: And I'm not coaching my witness.
14 All I'm asking you to do is let me finish making my
15 statement so the court reporter can take it down and then
16 you can say whatever you have to say.
17 MS. MONTGOMERY: Are you finished?
18 MR. SHERR: I think I am.
19 BY MS. MONTGOMERY:
20 Q I believe you testified earlier that when Mr.
21 Corneal came and first presented his subdivision plan to the
22 board of supervisors that he was told that there was a
23 moratorium in place and that he should take his plan to the
24 Huntingdon County Planning Commission; is that correct?
25 A I don't believe -- I could correct it by

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1 Q Did you need to get some water?
2 A Please.
3 Q Go right ahead.
4 (Pause.)
5 BY MS. MONTGOMERY:
6 Q Do you recall Mr. Corneal asking you at the
7 meeting in which he was told that there was a moratorium in
8 place for any copy that existed -- of any written copy that
9 existed of the moratorium, do you recall that?
10 A No.
11 Q Do you recall Mr. Corneal asking for a copy of
12 the draft subdivision plan?
13 A No.
14 Q You don't recall him asking at any time for a
15 copy of the draft subdivision plan?
16 A No.
17 Q Did you ever learn from anybody else that he
18 asked for a copy of a draft subdivision plan -- I'm sorry, I
19 keep using plan and I apologize, a draft subdivision
20 ordinance.
21 A No.
22 Q So if you misunderstood my prior questions, I
23 will repeat them to you. I was asking whether you
24 understood -- whether you heard from anybody else that Mr.
25 Corneal had asked for a copy of the draft subdivision

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1 ordinance at any time.
2 A No.
3 Q You never heard about that?
4 A (Witness shook his head negatively.)
5 Q Do you recall whether the Corneals ever
6 submitted a revised subdivision plan after their -- they
7 were initially told that there was a moratorium in place?
8 A No.
9 Q You don't recall them ever doing that?
10 A No.
11 Q Do you recall the March 2000 meeting of the
12 board of supervisors?
13 A Unless there was something that happened.
14 Q I'm sorry?
15 A Unless there was something that happened that
16 would stick in my mind. Maybe it was a routine meeting. I
17 -- I don't know. I'd have to look at the minutes.
18 Q I'll get you the March minutes and maybe that
19 will help you recall. Just give us a second.
20 A While you're doing -- while you're searching
21 for that, can I go to the rest room?
22 Q Men's room?
23 A Yes.
24 Q Sure.
25 (Break taken at 11:47 a.m. until 12:01 p.m.)

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1 BY MS. MONTGOMERY:
2 Q Mr. Wilson, we're back on the record. I'm
3 going to ask you, did you review any documents in
4 preparation for this deposition?
5 A No.
6 Q Have you reviewed any documents at all in
7 connection with the filing of this lawsuit?
8 A No, I just keep going over the last -- that
9 thing I received on July 4th. I just keep looking at that.
10 I have it laying on my freezer.
11 Q What did you receive on July 4th?
12 A I was served with a lawsuit.
13 Q With the complaint?
14 A Yeah.
15 Q Now, I think you testified a moment ago that
16 you don't recall whether the Corneals submitted a revised
17 subdivision plan?
18 A Not that I know of.
19 Q Do you recall the April 2000 meeting of the
20 board of supervisors?
21 A No.
22 Q Do you recall whether -- well, do you recall
23 whether there was any meeting after the January meeting in
24 which the moratorium was announced and then the February
25 meeting in which you -- Mr. Corneal was told his subdivision

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1 plan couldn't be approved? Do you recall him coming to a
2 meeting and asking for a copy of the proposed subdivision
3 ordinance?
4 A No.
5 Q Do you recall Mr. Corneal coming to the April
6 meeting -- or to any meeting and asking that the supervisors
7 sign his sewage modules?
8 A Yes.
9 Q Could you tell me what you recall about that
10 meeting?
11 A Do you have the minutes?
12 Q Yes, I do.
13 A I'm sorry.
14 Q Sure.
15 MS. MONTGOMERY: We'll mark this as Wilson
16 Exhibit 4.
17 (Minutes dated 4/3/00 produced and marked as
18 Wilson Exhibit No. 4.)
19 BY MS. MONTGOMERY:
20 Q When you're finished, Mr. Wilson, just let me
21 know.
22 A Okay.
23 Q Now, you asked to review the April 3rd
24 minutes. Why did you need to review them?
25 A I can't remember the meetings.

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1 Q Now that you've reviewed the minutes do you
2 think you can remember the meeting a little better?
3 A Yes.
4 Q Now, tell me what you recall about the April
5 3rd, 2000 meeting.
6 A Mr. Corneal had a handful of sewage modules
7 that he wanted the township supervisors to sign and the
8 supervisors would not sign them because we didn't have the
9 subdivision plan or anything.
10 Q So the reason you wouldn't sign the sewage
11 modules is because you didn't have what, a map, a plan?
12 A Yes, and we -- and we have no -- we had no
13 idea all these months what Mr. Corneal's plans were. He
14 kept changing things.
15 Q Well, how did you know he kept changing
16 things?
17 A I had a call from Attorney Newton that Mr.
18 Corneal had dropped off a subdivision plan at his office.
19 Well, he had to -- and I don't remember who went in and
20 picked it up, that's 16 miles away, but brought it out. But
21 these are the -- these are the kind of things we had no
22 idea, no continuity of what was happening here.
23 Q So going back to your testimony about Mr.
24 Newton, I think you'd indicated that you didn't recall
25 discussing Mr. Corneal's subdivision plan with Mr. Newton.

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1 Now do you recall discussing --
2 **A Well, I didn't discuss it with him. He called**
3 **and said he dropped it off here and assumed that we needed**
4 **it. I didn't discuss anything with Larry.**
5 **Q Well, when I say discussion, I guess I'm just**
6 **talking about any conversation, any contact, any words**
7 **exchanged whatsoever about Mr. Corneal's subdivision or his**
8 **property. That's what I'm trying to get to.**
9 **So we don't need to limit ourselves to what**
10 **you might consider to be a discussion. I'm talking about**
11 **any contact, written, verbal, telephone call, meeting along**
12 **the street, formal, informal, anything.**
13 **A That's what it was.**
14 **Q And do you have any idea why Mr. Corneal took**
15 **the subdivision plan to Mr. Newton's office and dropped it**
16 **off?**
17 **A No, I don't.**
18 **Q Did Mr. Newton tell you why Mr. Corneal**
19 **dropped the subdivision plan off at his office?**
20 **A No.**
21 **Q Did somebody go out and pick it up, you said,**
22 **from Mr. Newton?**
23 **A Yeah, and I don't even know who.**
24 **Q And what did you do with it then?**
25 **A Well, it should be at the township office.**

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1 **That's the one with the orange lines on it. There's --**
2 **there's been various pieces of -- and designs and cut down**
3 **the lots and stuff. I -- I don't even know where it's at.**
4 **I don't even know what the -- what the last plan is.**
5 **Q Do you understand why Mr. Corneal went from**
6 **proposing five or more lots to proposing fewer lots?**
7 **A I don't know.**
8 **Q You understand that he did, though, go from**
9 **proposing more lots to proposing fewer lots, correct?**
10 **A Yes, I ...**
11 **Q And do you understand as well that the sewage**
12 **enforcement officer had approved sewage modules for at least**
13 **five lots and later Mr. Corneal only wanted to take it down**
14 **to two of those lots; isn't that correct? Do you understand**
15 **that?**
16 **A Yes.**
17 **Q Do you understand also that the latest sewage**
18 **module that Mr. Corneal brought to you really only related**
19 **to one lot, the 95 -- the whole 95-acre piece?**
20 **A Yes.**
21 **Q So he was really only asking you to approve**
22 **the sewage module so he could build his house on his**
23 **property, correct?**
24 **A No.**
25 **Q What do you understand?**

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1 **A I don't understand that. He hired another**
2 **attorney and his attorney and I have been working to try to**
3 **get this resolved. And we went into a land development**
4 **plan, not a subdivision, and that's what we've been working**
5 **on with Terry Williams, and it still isn't -- they're**
6 **working on -- they're meeting on that lot today to discuss**
7 **the sewage problem. So I -- I'm at a loss. I'm still at a**
8 **loss as a supervisor as to what's happening at the Corneal**
9 **property.**
10 **Q Well, this is May 2001. We're going back to**
11 **the last time that David Corneal came in and the April 2000**
12 **meeting with these modules that you wouldn't sign. Do you**
13 **understand at that point that he had said, okay, all I**
14 **really want to do now is build my house?**
15 **A No.**
16 **Q What do the minutes say?**
17 **A It says he's no longer subdividing them and**
18 **would like to build a -- we had no idea the way things have**
19 **been changing that -- what was going to happen the next day.**
20 **Q Did Mr. Corneal ever change the site of the**
21 **approved -- the approved septic sites that your sewage**
22 **enforcement officer had approved, did he change those sites?**
23 **A I'm sorry, I --**
24 **Q Did he move them? Did he say I want -- I want**
25 **a new -- I want a new test site approved or --**

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1 **A No.**
2 **Q -- was he just using the already approved test**
3 **sites and saying I want to build and use one of them?**
4 **A That's what I understand.**
5 **Q So he had approved test sites from the sewage**
6 **enforcement officer and what he was doing was just changing**
7 **down the number of possible buildings that he might ever put**
8 **on that property; isn't that correct?**
9 **A Possible.**
10 **Q Now, it reads in the April 3, 2000 minutes**
11 **that the supervisors told him that they weren't going to**
12 **issue a building permit for a property that they know is**
13 **going to be subdivided, correct?**
14 **A Correct.**
15 **Q So despite the fact that Mr. Corneal came and**
16 **said, okay, fine, I'm not going to subdivide, you said I**
17 **can't subdivide, I just want to build my house, you said he**
18 **can't even have a building permit for his house because you**
19 **think he might subdivide later, correct?**
20 **A He needed a sewage permit to get a building**
21 **permit for his house.**
22 **Q Right, but he couldn't get a sewage permit**
23 **until you signed the sewage module, correct?**
24 **A Right.**
25 **Q So you wouldn't sign the sewage module because**

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1 you thought he might want to subdivide later, correct?
2 **A My -- and this is my opinion at that meeting,**
3 **not to sign those five modules because Mr. Corneal could do**
4 **whatever he wanted on that property without any okay from**
5 **the township, any plan.**
6 **Q Well, that's not accurate, is it, because he**
7 **still had to go get a sewage permit?**
8 **MR. SHERR: Objection, argumentative. You can**
9 **answer.**
10 **BY MS. MONTGOMERY:**
11 **Q He still had to go get the permit for the**
12 **sewage, right, but he needed the sewage module first,**
13 **correct?**
14 **A For the land -- for the land development why**
15 **would he need the sewage module. It's just like --**
16 **Q Go ahead. I don't mean to --**
17 **A The property, okay, wasn't being split, okay,**
18 **so he was going with a land improvement. All he had to have**
19 **was an approved site there for a new house and everything**
20 **would have been fine, but we've cluttered the landscape so**
21 **bad over there we don't know what Mr. Corneal is doing.**
22 **Q Mr. Corneal, as you testified a moment ago,**
23 **told you at this April 3, 2000 meeting that he just wanted**
24 **to build a house on the property, correct?**
25 **A Yeah, but he's -- we've had several stories**

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1 **from Mr. Corneal, what he was doing, and we didn't know what**
2 **was happening.**
3 **Q Didn't Mr. Corneal's stories change only as he**
4 **received refusals from the township for permission to do**
5 **what it was that he wanted to do?**
6 **A Yes.**
7 **Q Right?**
8 **A Yes.**
9 **Q So the last thing he came and said is I'd like**
10 **-- I just want to build my house. Can you please sign**
11 **these sewage modules and I'll get my septic system in for my**
12 **house, one house, right?**
13 **A Well, that's what he said.**
14 **Q But you wouldn't sign them because you**
15 **thought, well, he really wants a subdivision so I'm not**
16 **going to open this door for him; isn't that correct?**
17 **A We were not signing five sewer modules for one**
18 **house.**
19 **Q Well, it just gives him an option where he**
20 **wants to place his house, doesn't it?**
21 **A He already had a house started, didn't he.**
22 **Q I don't know if he had a house started on**
23 **April 3, 2000.**
24 **MR. CORNEAL: No.**
25 **BY MS. MONTGOMERY:**

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1 **Q Did he?**
2 **A I don't know. Of course, I wasn't allowed on**
3 **that property.**
4 **Q Let's talk about the building permit. Did you**
5 **have any discussions with your building permit officer about**
6 **whether or not Mr. Corneal ought to have a building permit?**
7 **A Yeah, the day Mr. Corneal was at the building**
8 **officer's house, yes. Dave called me.**
9 **Q He called you from his house?**
10 **A Yes.**
11 **Q And what did you tell Dave?**
12 **A I told him don't you dare issue him a permit.**
13 **Q Well, Mr. Corneal came to -- and when you say**
14 **Dave, you're talking about Mr. Van Dommelen, right?**
15 **A Yes.**
16 **Q Mr. Corneal actually came and just asked for**
17 **an application for a permit, correct?**
18 **A That isn't what I heard on the phone.**
19 **Q Well, he couldn't get a permit if he didn't**
20 **have an application, right?**
21 **A Well, I'm -- I'm telling you what -- the**
22 **conversation I had on the phone. He was -- I was asked if**
23 **there was to be a permit issued to Mr. Corneal and I told**
24 **him no way, we don't have the thing signed.**
25 **Q So was it your understanding that he had gone**

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1 **out and asked for a building permit for a house?**
2 **A No, a five-bay garage with an over-study.**
3 **Q So he had gone out and asked for a building**
4 **permit for a garage. And does a garage require sewage?**
5 **A If you have an over-study on it, there's going**
6 **to be water in there.**
7 **Q What's an over-study?**
8 **A Apartments, a living space up there.**
9 **Q I thought you said you hadn't seen any, you**
10 **know, plans or anything for what Mr. Corneal wanted to**
11 **build.**
12 **A No, Dave -- Dave told me that's what it was**
13 **when he called me.**
14 **Q Dave Van Dommelen told you he wanted a**
15 **five-bay garage with apartments over it and you said don't**
16 **you dare issue him a building permit?**
17 **A And he knows better than to issue a permit**
18 **without a sewage permit because there's potential -- there's**
19 **-- that building has potential for human habitat.**
20 **Q So did you tell Mr. Van Dommelen not to even**
21 **give him the application?**
22 **MR. SHERR: Objection, asked and answered.**
23 **THE WITNESS: No.**
24 **BY MS. MONTGOMERY:**
25 **Q No? Are you aware that Mr. Van Dommelen**

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1 refused to even give him an application?
2 A No.
3 Q You didn't know that?
4 A No.
5 Q So do you believe that it was appropriate for
6 you at the April 3, 2000 township meeting to tell Mr.
7 Corneal that he couldn't have a building permit for -- I'm
8 sorry, that you couldn't sign the sewage module for one
9 building because you thought he might subdivide?
10 A Right.
11 Q You think that was appropriate?
12 A Yes.
13 Q Even though he told you he wasn't going to
14 subdivide?
15 A Yes.
16 Q You didn't have an approved subdivision plan
17 at that point, right?
18 A We didn't have anything except his handful of
19 sewer modules.
20 Q Because you told him there was a moratorium so
21 he said, okay, I won't subdivide, right?
22 A I'm sorry, my --
23 Q I said when you had told him that there was a
24 moratorium, he said, okay, I won't subdivide right?
25 A Right.

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1 Q Now, I understand that you told Mr. Van
2 Dommelen not to issue him a building permit for his garage?
3 A That's right.
4 Q Are you aware that Mr. Van Dommelen told Mr.
5 Corneal that there was going to be a meeting about his
6 property the next day?
7 A No.
8 Q Was there a meeting about his property the day
9 after he went out there and asked him -- Mr. Corneal went
10 out and asked Mr. Van Dommelen for a building permit?
11 A No.
12 Q There was no meeting?
13 A Not that I know of.
14 Q Well, do you recall what day of the week it
15 was when Mr. Van Dommelen called you about Mr. Corneal's
16 request for a building permit application?
17 A No.
18 Q Do you recall whether or not the supervisors
19 -- or any supervisor and Mr. Van Dommelen did in fact meet
20 the next day or soon thereafter about Mr. Corneal and his
21 property?
22 A I don't know.
23 Q Do you recall any meeting other than a formal
24 monthly township supervisor's meeting or a special meeting
25 that was called by the board of township supervisors during

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1 which Mr. Corneal and his property were discussed by you and
2 the other township supervisors?
3 A No.
4 Q Well, I want to make sure that we're not
5 unnecessarily limiting this information. So understand that
6 I'm asking you whether there was any informal meeting
7 whatsoever between any supervisor and anybody else, any
8 township official about Mr. Corneal's property after he went
9 out there and had that conversation with Mr. Van Dommelen
10 about his building permit?
11 A Not that I can recall.
12 Q You talked a moment ago about Larry Newton
13 calling you up and saying, well, I've got this subdivision
14 application that Mr. Corneal dropped off. Now, was there
15 any other telephone calls from or to Larry Newton about Mr.
16 Corneal around that same time frame that you recall?
17 A Not that I recall.
18 Q Not necessarily that you took part in but that
19 Miss Wirth or you or any other township supervisor or the
20 building permit officer or the sewage enforcement officer.
21 A Not that I recall.
22 Q That's the only telephone call you can recall
23 from or to Larry Newton about Mr. Corneal?
24 A Yes.
25 Q What about any other meeting, contact,

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1 conference, conversation, discussion, anything after that
2 time when Mr. Newton called about Mr. Corneal's subdivision
3 plan?
4 A I don't recall.
5 Q But I think you testified, and you correct me
6 if I'm wrong, that the call came from Larry Newton prior to
7 the point that Mr. Corneal came in and asked to have his
8 sewage modules signed at the April 3, 2000 meeting; isn't
9 that correct?
10 A I don't know that.
11 Q You had indicated that you didn't have the
12 subdivision plan in front of you when he brought the sewage
13 modules in in April 2000?
14 A (Witness nods head affirmatively.)
15 Q And you also indicated that you knew that
16 Larry Newton had them, had gotten a copy and that somebody
17 had gone out and picked them up but you didn't know what
18 happened to them, correct?
19 A Exactly. I don't -- I don't know what the
20 dates were on this, when -- when we had the call that there
21 was a plan dropped off at Larry's office. I suppose it was
22 the same -- at the Daily News, but I don't know what that
23 day was and I don't know where that got to.
24 Q Who talked to Larry Newton, who took that call
25 from Larry Newton?

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1 A That there was a plan in there? I assume the
2 township office.

3 Q Ann Wirth?

4 A I'm assuming that.

5 Q Well, you'd indicated that you didn't have the
6 plot plan in front of you, but does an individual need a
7 plot plan if they're not subdividing?

8 A No. If they're doing land development, they
9 do.

10 Q I'm going to show you some documents. We'll
11 just put them together as Wilson Exhibit 5. These are the
12 February 24, 2000 and April 20, 2000 letters from the
13 Huntingdon County Planning Commission.

14 (Packet of documents produced and marked as
15 Wilson Exhibit No. 5.)

16 BY MS. MONTGOMERY:

17 Q Take a moment to review them, Mr. Wilson.
18 Have you seen these documents in the past?

19 A Yes.

20 MR. SHERR: Have you finished reviewing them?

21 THE WITNESS: Yes.

22 BY MS. MONTGOMERY:

23 Q Have you seen the documents in the past? Are
24 you ready? I think you testified you have seen the
25 documents in the past, correct?

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1 A Yes.

2 Q Did you see them at the time that they were
3 first generated, like around the February 2000 time frame
4 and around the April 2000 time frame?

5 A When they came from the county, yes.

6 Q Miss Wirth turned them over to you when they
7 came from the county?

8 A Yes.

9 Q I'm going to draw your attention to the April
10 20, 2000 letter from the Huntingdon County Planning
11 Commission. Do you understand that letter to say that the
12 commission found Mr. Corneal's property suitable for on-lot
13 sewage disposal and --

14 A Yes.

15 Q -- for the -- yes, right?

16 A Yes.

17 Q I just want to make sure the court reporter
18 understood that you said yes. Did you understand that the
19 Huntingdon County Planning Commission found the property
20 suitable for division into two lots?

21 A Yes.

22 Q Do you recall whether the subdivision plan for
23 the two lots was returned to the township supervisors along
24 with this letter?

25 A I never seen it.

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1 Q So you don't know whether it was because it
2 went to Miss Wirth, right?

3 A Well, if it -- if it came, I should have it --
4 the supervisors should have it. I'm curious if the plan
5 came back.

6 Q But this letter indicates that there was a
7 subdivision plan for the two lots, correct?

8 A Well, the proposal is a resubmission, Lot 1
9 the residue and Lot 3 contains 25 acres.

10 Q Let's read the first sentence, the Huntingdon
11 County Planning Commission.

12 A Has reviewed the above-referenced property.

13 Q Proposal. Did you read that first sentence,
14 Mr. Wilson?

15 A Has reviewed the above-referenced proposal to
16 subdivide a property containing 94.67 acres into two lots.

17 Q Now, as you testified earlier, Mr. Corneal was
18 directed or told that he had to submit his plan to the
19 Huntingdon County Planning Commission first, correct?

20 A For review.

21 Q For review?

22 A Yeah.

23 Q So they reviewed it and sent it back to you,
24 correct?

25 A Yes.

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1 Q And said they found it suitable, correct?

2 A Yes.

3 Q So at what point do you believe that Mr.
4 Corneal had not taken the proper steps to obtain permission
5 to build a house on his property?

6 A I -- I don't think -- and this is my opinion.
7 I don't think that has anything to do with building a house
8 here. This is approval of a subdivision, nothing about
9 building a house.

10 MR. SHERR: You're referring to the April 20th
11 letter?

12 THE WITNESS: Yes.

13 BY MS. MONTGOMERY:

14 Q Right, but didn't you indicate earlier that
15 Mr. Corneal couldn't build because he didn't have -- hadn't
16 submitted all the right plans, you didn't have a plan in
17 front of you?

18 MR. SHERR: I'm going to object to the form of
19 the question because this is completely confusing. Are you
20 discussing now in your question what you asked him about the
21 April township meeting which occurred before the date of
22 this letter that he has in front of him?

23 MS. MONTGOMERY: That's what I'm asking him.

24 MR. SHERR: Okay.

25 THE WITNESS: Okay, I still haven't seen the

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1 subdivision thing that is discussed here, but regenerated
2 now into a new land development certificate, okay. It's
3 being processed by Terry Williams, his other attorney, and
4 we are -- we've had two hearings in the Huntingdon County
5 Courthouse that these things were supposed to be in order to
6 the satisfaction of Jackson Township by our judge.

7 And the last time we were in there the judge
8 said that we had 30 days to get this in order or we would be
9 back in. Well, we're way past the 30 days and I don't know
10 what's going on.

11 So I'm -- my thing is that I will -- when I
12 get back, I want to call our solicitor and have him call Mr.
13 Corneal's solicitor, new solicitor, and see what's happening
14 because Williams and I have met on several occasions to try
15 to get these things resolved and we don't seem to be getting
16 any further. It's just like it stopped.

17 BY MS. MONTGOMERY:

18 Q But the April 20, 2000 letter from the
19 Huntingdon County Planning Commission was written before
20 this lawsuit was initiated, correct?

21 A Yeah.

22 Q Before the Huntingdon County Commission
23 lawsuit, not the Huntingdon County lawsuit, was initiated by
24 the township, correct?

25 A Yes.

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1 Q So we're just talking about this period of
2 time here where you indicated that you had not seen and
3 still have not seen a subdivision plan, right?

4 A Right.

5 MR. SHERR: And just to be clear, again,
6 you're saying he indicated as of that April meeting he had
7 not seen a subdivision plan.

8 MS. MONTGOMERY: No, he indicated he still has
9 not seen the subdivision plan, that's what I'm questioning
10 him about.

11 MR. SHERR: Well, I think it's completely
12 ambiguous and I don't really understand what you're saying
13 and --

14 MS. MONTGOMERY: Well, then I'll just clarify
15 it.

16 MR. SHERR: That would be great.

17 MS. MONTGOMERY: And I don't think that your
18 witness is confused.

19 MR. SHERR: Well, I --

20 BY MS. MONTGOMERY:

21 Q What you testified was that you hadn't yet
22 seen an April -- I mean, you hadn't yet seen a subdivision
23 plan. Right now, today, you haven't seen one, correct?

24 A Correct.

25 Q I showed you an April 20, 2000 letter from the

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1 Huntingdon County Planning Commission indicating that they
2 had reviewed and were sending back to you with approval --

3 A Um-hum.

4 Q -- a two lot subdivision plan, right?

5 A Yeah.

6 Q And so I'm asking you why you hadn't seen the
7 plan, the Huntingdon --

8 A I still haven't seen it.

9 Q But you don't know why you haven't seen it?

10 A No.

11 Q That's all I'm trying to get to.

12 MR. SHERR: And did your question assume that
13 this letter somewhere said that they were sending the plan
14 back to the township?

15 MS. MONTGOMERY: Actually it's based on the
16 testimony from prior witnesses and this witness that the
17 Huntingdon County Planning Commission reviews the plan and
18 sends it back.

19 MR. SHERR: I don't remember any such
20 testimony.

21 MS. MONTGOMERY: Well, the record will speak
22 for itself.

23 MR. SHERR: It absolutely will.

24 BY MS. MONTGOMERY:

25 Q Let me ask you this, Mr. Wilson: When the

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1 Huntingdon County Planning Commission sends a letter like
2 this back, right, saying we've reviewed a plan, do they send
3 the plan back to the township?

4 A Not always.

5 Q Do they --

6 A They keep --

7 Q -- sometimes?

8 A They keep one on file. It depends on how --
9 maybe I should back up. Most of these things are submitted
10 to the county by either the owner or his representative. So
11 we don't know how many he drops in there. If they have an
12 extra one there, they'll send it back, but we still should
13 have one at the township and we don't -- well, it may be
14 there now. Things are so ...

15 Q Do you know whether or not Miss Wirth produced
16 to us a copy of this plot plan that was referenced in the
17 April 20, 2000 Huntingdon County Planning Commission letter,
18 if she produced it back to us in connection with this
19 litigation?

20 A I don't know. Is it possible to ask if we
21 could break? I have to go again and maybe we could eat.

22 Q Okay, sure.

23 (Luncheon recess taken at 12:36 p.m. until
24 1:30 p.m.)

25 BY MS. MONTGOMERY:

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1 Q Back on the record, Mr. Wilson. You're still
2 under oath.
3 A Okay.
4 Q Do you recall whether at the February 2000
5 meeting when Mr. Corneal brought his subdivision plan in the
6 first time and you told him there was a moratorium, do you
7 recall whether he told you and the supervisors at that
8 meeting that the moratorium was illegal?
9 A I don't recall that.
10 Q Do you recall at any time hearing from anybody
11 that Mr. Corneal thought that the moratorium was illegal,
12 invalid?
13 A If my memory serves me right, I -- it was at
14 the next meeting he came that he said that.
15 Q But you recall him saying it at one meeting or
16 another?
17 A Yes. Yes, I heard him say that.
18 Q What did you say? Did you say anything back
19 to him?
20 A It is legal.
21 Q According to who?
22 A According to the township regulations.
23 Q Do you recall anybody saying to him when he
24 said it was illegal, not according to our solicitor?
25 A No.

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1 Q You don't recall anybody answering him that
2 way?
3 A No.
4 Q Well, once he said it was illegal, did you go
5 check with your solicitor to find out whether he was --
6 A No.
7 Q -- correct or not?
8 A No.
9 Q You didn't?
10 A No.
11 Q Because you thought you knew yourself?
12 A As I had testified before, there's been other
13 townships in the county that had to do -- and surrounding
14 areas that had to do the same thing and they're legal. I
15 guess we'll find out. The law says it is.
16 Q I'm going to show you a document that we'll
17 mark as Wilson Exhibit 6. We'll have the court reporter
18 mark it and then you can take a look at it.
19 (Subdivision plan produced and marked as
20 Wilson Exhibit No. 6.)
21 BY MS. MONTGOMERY:
22 Q Take a moment and look at it, Mr. Wilson, and
23 I just want to ask you a couple questions about it. Just
24 let me know when you're finished.
25 A Okay.

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1 Q Have you seen this document before?
2 A I seen a document that resembles this, but I
3 don't remember the black lines that are through there.
4 Q When you say it resembles this, do you mean
5 that you saw a document where this property, the Corneal
6 property, was broken up into these lots?
7 A Yes.
8 Q But you don't recall which black lines?
9 A No. What I observe here is some of them --
10 some of them aren't -- have been whited out or something.
11 They're not continuous.
12 Q Oh, I see.
13 A I -- I recall seeing a document like this but
14 it had different features on it. I mean, the lines don't
15 seem to ring a bell.
16 Q Okay. But just to be clear, do you recall
17 seeing a document like this mapping out the Corneal property
18 broken up into five lots?
19 A I don't remember.
20 Q In what context do you recall seeing a
21 document that looked like this but maybe had somewhat
22 different lines?
23 A This -- this reminds me of the copy that I
24 seen that came from Larry Newton that was dropped off he
25 told me by Mr. Corneal, but it had bright orange lines on

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1 it. So it's -- the contrast of my eyes, it doesn't look --
2 overall it looks the same, but it looks different inside.
3 Q Maybe because that was the original and these
4 are copies?
5 A I ...
6 Q She's going to go get the original, if she can
7 find it. I mean, is that what's bothering you, that just
8 the lines are a different color?
9 A Well, yeah, and there's like three and a half
10 that are -- that look like they've been whited out or
11 something.
12 Q Right, that might just be a copy problem, but
13 we'll figure it out. So you say you think it might have
14 been part of the materials that had gotten dropped off to
15 Larry Newton?
16 A That's my recollection, yeah.
17 Q When did you see those materials that were
18 dropped off to Larry Newton?
19 A I don't recall.
20 Q But you did see a plot plan in connection with
21 the materials that were dropped off to Larry Newton?
22 A The only thing I seen was a plan like this
23 that had orange lines on it. I assume somebody reworked --
24 Q Well, as we discussed earlier, Mr. Corneal's
25 property has been reworked a number of times in terms of how

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1 many lots it's going to be in, right?
2 **A Yeah.**
3 **Q** Well, while we're waiting for her to bring
4 back the original, let's just have you look at this -- what
5 we're going to mark as Wilson Exhibit 7.
6 (Subdivision and land development ordinance
7 Jackson Township produced and marked as Wilson Exhibit
8 No. 7.)
9 **MS. MONTGOMERY:** You guys already have a copy
10 of this, the subdivision plan.
11 **MS. YANKANICH:** Yes.
12 **MS. MONTGOMERY:** You can look at your client's
13 copy if you like.
14 **BY MS. MONTGOMERY:**
15 **Q** I just want you to look at that and identify
16 it for the record, Mr. Wilson, if you will.
17 **A It looks like the -- a copy of the ordinance**
18 **-- subdivision and land use development ordinance of**
19 **Jackson Township.**
20 **Q** Can you turn to page 71 of the ordinance, to
21 the signatures on page 71.
22 **A Yes.**
23 **Q** Is that your signature there?
24 **A Yes.**
25 **Q** In the middle?

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1 **A Yes.**
2 **Q** So this is a copy of the subdivision and land
3 development ordinance that you passed as a township
4 supervisor for Jackson Township, correct?
5 **A Correct.**
6 **Q** Now, let me ask you this: Do you see -- you
7 testified the ordinance was passed on July 10, at a July 10,
8 2000 meeting, correct?
9 **A Correct.**
10 **Q** Do you know why this is dated July 7, 2000?
11 **A No idea.**
12 **Q** But you're quite certain that the meeting
13 occurred on July 10th, which is I believe a Monday, right?
14 **A I believe so.**
15 **Q** So the subdivision ordinance was actually
16 passed after this lawsuit was initiated, correct?
17 **A I don't know.**
18 **Q** I think you said you recall being served with
19 the papers on July 3rd, right?
20 **A 4th.**
21 **MR. SHERR:** He said July 4th.
22 **BY MS. MONTGOMERY:**
23 **Q** July 4th?
24 **A Yeah, it was a holiday.**
25 **Q** So the subdivision ordinance was passed then

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1 after you were served with the papers, correct, for this
2 lawsuit?
3 **A Yes.**
4 **MS. MONTGOMERY:** She doesn't have the
5 original. Well, all right then.
6 (Discussion held off the record.)
7 **BY MS. MONTGOMERY:**
8 **Q** Well, unfortunately we don't have the original
9 in the office of this plan, but I think you've answered
10 enough questions about it for right now. We're going to
11 move on to another one, okay.
12 I'm going to take you to a plan that actually
13 -- we have plans in the record from before, right, old
14 exhibits there? I think we'll just use them instead of
15 making new ones.
16 I'm going to show you what has previously been
17 marked as Parks Exhibit 2. This is a February 4, 2000 plan
18 of proposed subdivision and I'm going to ask you to look at
19 that and tell me whether or not you've seen that in the
20 past.
21 (Pause.)
22 **BY MS. MONTGOMERY:**
23 **Q** Do you recall seeing that document in the
24 past, Mr. Wilson?
25 **A I recall seeing a document that looked like**

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1 **this, but here -- I don't recall the changes.**
2 **Q** You recall seeing a subdivision plan, in other
3 words, for the Corneal property but maybe the lines were
4 different at some point or what?
5 **A The only -- I don't understand the -- it looks**
6 **like someone tried to take these out and they added a garage**
7 **or something here.**
8 **Q** Take what out, when you say tried to take
9 these out?
10 **A The lines. See, they're -- somebody took a**
11 **pen or something and tried to scribble them out.**
12 **Q** So it looks like it was a plan that was
13 somehow redrawn, is that what you mean?
14 **A Well, it's been altered, yes.**
15 **Q** Well, let me show you another document that's
16 been previously marked as Parks Exhibit 1, the April 7, 2000
17 subdivision plan for the Corneal property and ask you
18 whether you recall seeing that document.
19 **A There again, it resembles something that I**
20 **have seen. I don't know -- it looks like all the probes and**
21 **percs and everything that -- well, there isn't any percs on**
22 **here. All the soil logs and everything are established, but**
23 **there should have been a later one that I seen that -- where**
24 **the percs were done for these sites, and those aren't on**
25 **there. So apparently this is an earlier one.**

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1 Q Now, there are perc numbers on that map,
2 aren't there?
3 A Where?
4 Q Eight, 9, 10. Do you see that one circled
5 with the red ink?
6 A No, those are soil logs.
7 Q Okay. Those aren't perc numbers?
8 MR. CORNEAL: They're perc numbers.
9 BY MS. MONTGOMERY:
10 Q What makes you think they're not perc numbers?
11 A They're soil logs. Percs are done between the
12 soil logs to see if the site is approved.
13 Q Well, if I represent that your sewage
14 enforcement officer told us yesterday that they were perc
15 numbers, would that change your view of it?
16 A No.
17 MR. SHERR: Object to the form of the
18 question.
19 BY MS. MONTGOMERY:
20 Q I'm sorry, go ahead.
21 MR. SHERR: He answered the question.
22 BY MS. MONTGOMERY:
23 Q What did you answer?
24 MR. SHERR: He answered it no.
25 BY MS. MONTGOMERY:

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1 now, I've now shown you three maps and in response to each
2 of them you've said I've seen something that looks like
3 that.
4 A (Witness nods head affirmatively.)
5 Q But you think maybe the lines were a little
6 bit different or there was more or less detail, correct?
7 A They all look -- all the ones I've seen here
8 look altered.
9 Q Altered from the one that you saw?
10 A Yes.
11 Q When did you see the one that you saw?
12 A I've -- I don't know a date.
13 Q Have you only seen one?
14 A I glanced at the one Mr. Corneal brought into
15 the -- what meeting was it?
16 Q The February 2000?
17 A February. I glanced at it and then the next
18 one I seen was the one that came from the attorney which had
19 all the orange lines and changes or --
20 Q The one that had gotten dropped off to Larry
21 Newton --
22 A Yes.
23 Q -- and you didn't know how and somehow it came
24 back to you?
25 A Yes.

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1 Q Is that what you answered, no?
2 A No, they aren't perc.
3 (Discussion held off the record.)
4 BY MS. MONTGOMERY:
5 Q I'm going to ask you to look at the site
6 investigation and percolation test reports that are part of
7 Wilson 2 and just refer to the graph that's in the middle of
8 this perc test here, this perc test report. There's some
9 handwriting at the top.
10 MS. MONTGOMERY: And let the record reflect
11 I'm pointing to the words that start out perked between.
12 BY MS. MONTGOMERY:
13 Q Do you see that?
14 A Yeah, perked between 3 and 4.
15 Q So what do you take those numbers 3 and 4 to
16 mean?
17 A Soil logs. Right here.
18 Q So those are soil logs?
19 A That's a log, yes. That perc was done right
20 along Sawmill Road.
21 Q So you think the numbers are -- so there would
22 be separate perc numbers, are you saying, on a new map?
23 A Perc -- I don't know that. It's whatever the
24 surveyor draws up.
25 Q In any event, putting that aside for right

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1 Q When did you see that one -- or where did you
2 see it, I should say? Where were you when you saw it?
3 A I don't know. I don't -- I don't know about
4 these legal things. I was going to say probably, but that
5 -- that is -- that's flirty.
6 Q That's good enough for a deposition for right
7 now. If you don't know the exact date, then you can tell me
8 as close as you can possibly tell me.
9 MR. SHERR: Right, as long as you're not
10 guessing at it you can give --
11 THE WITNESS: Yeah, I don't know. I would be
12 guessing.
13 BY MS. MONTGOMERY:
14 Q Can you take a look at Wilson 5, the April
15 20th letter from the Huntingdon County Planning Commission.
16 Do you have it?
17 A Yes.
18 Q Can you look at the second page of that
19 letter. Do you see at the top where it says a detailed map
20 and study data, the second line?
21 A The second line of mine says investigation and
22 because maps submitted with the investigation did not --
23 Q No, you're looking at the wrong letter. Look
24 at the April 20th letter which is the second part of that.
25 A That's February.

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1 Q No, it's going to be on the same document, I
2 believe.
3 A Okay.
4 Q There you go. Now, look at the second page of
5 that letter, second line. Can you read that for me, please,
6 starting with the detailed map and study.
7 A A detailed map and study data identifying the
8 investigation area was submitted and indicates no wetlands
9 are present at the location of the lots in this proposal.
10 Q Do you recall reading that line before today?
11 A No.
12 Q Now, you testified earlier that you got these
13 letters when they come in, right?
14 A Yes.
15 Q You don't recall this letter telling you that
16 there aren't any wetlands implicated by Mr. Corneal's
17 proposed subdivision?
18 MR. SHERR: Object to the form of the
19 question. The letter speaks for itself, but I believe it's
20 talking about what the Blazosky Associates said.
21 THE WITNESS: I'm sure that I -- I've read it,
22 but I don't know when. That's what I'm -- I see lots of
23 these and I -- I just can't give a date.
24 BY MS. MONTGOMERY:
25 Q Well, with this letter in hand would you have

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1 Q Okay, that's good.
2 MR. SHERR: You can finish your answer.
3 BY MS. MONTGOMERY:
4 Q Are you finished with your answer?
5 A Well, the -- I -- the only -- I didn't know
6 how wide the road was going to be put in there. I know what
7 would be required under a subdivision ordinance, how wide it
8 would have to be, but I have no idea what Mr. Corneal was
9 going to do for a width of the road there, if it was 10
10 feet, 12 feet, 14 feet, I don't know.
11 Q But if you're going to concern yourself with
12 that sentence that began with the Huntingdon County
13 Conservation District, then let's also read the last
14 sentence in that paragraph.
15 A The Huntingdon County Conservation District?
16 Q The last sentence that begins road
17 improvements.
18 A Right, road improvements should be limited to
19 existing cartway widths.
20 Q So do you take that to mean that's how the
21 Huntingdon County Planning Commission was telling you
22 you could deal with that concern about widening of roads?
23 A If the road -- I believe I personally talked
24 with Andy and his thought was that the road was existing and
25 as long as the road wasn't built wider than it was it would

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1 any reason to believe that there was any problem with
2 wetlands on Mr. Corneal's property?
3 A Yes.
4 Q Why is that?
5 A A detailed map and study identifying the
6 investigation area was submitted and indicates no wetlands
7 are present at the location of the lots in this proposal.
8 Well, I -- I read in that the location of the lots, his
9 proposed house development, where the house is going to set,
10 because Mr. Corneal knows as well as anybody that there are
11 wetlands on that property.
12 Q So that's your concern?
13 A Well, no, it's addressed -- it was addressed
14 on -- a little further down by the conservation district
15 noting that widening of the road could impact potential
16 wetland areas.
17 Q On Lot 2, correct?
18 A Well, the map I have here, the potential was
19 for Lot 4 and Lot 2, potential for widening of roads which
20 -- it describes there, is on Lot 4 till it goes across the
21 power right-of-way.
22 Q But did you have any indication that there was
23 an intent to widen the road to access a new dwelling on
24 Lot 2?
25 A No, the only --

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1 be permissible through there, yeah.
2 Q Did Mr. Corneal ever come and ask you to build
3 that road wider than it was?
4 A No.
5 Q Thank you. Now, you had testified that when
6 you got the letter back from the Huntingdon County Planning
7 Commission that there wasn't any plan attached to it,
8 correct?
9 A That's what I recall.
10 Q That's what you recall, or at least the letter
11 you got didn't have a plan attached to it, right?
12 A Right.
13 Q The letter went to Ann Wirth, though, of
14 course, right?
15 A All letters go to the township office and then
16 they're disseminated from there.
17 Q Did you then say, well, you know, if I'm going
18 to consider this letter, maybe I need to look at the plan?
19 Did you ask for a plan? Did you ask anybody for a plan?
20 A No, no actions are being taken on this.
21 Q No action has been taken on this?
22 A Right. We weren't taking no action on that.
23 It just laid. I -- all I did was for my information look at
24 what the county was recommending.
25 Q Now, if the county was reviewing his

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1 subdivision plan -- and I think you testified earlier that
2 that was the first step that was necessary in reviewing --
3 in getting subdivision approval in the township, right?

4 **A Yes.**

5 **Q** So the process was actually underway, correct,
6 because the county had finished its review and sent it back
7 to you, correct?

8 **A No, we didn't have a copy of what was going**
9 **on.**

10 **Q** So did you ask for a copy of what was going
11 on, now that you got this back from the county planning
12 commission?

13 **A There could have been an extra copy come back**
14 **from the county, but I -- I don't know.**

15 **Q** All I'm really asking you is, you know, why
16 didn't you ask for one? If your copy of the letter didn't
17 have one, why didn't you ask to see it? Why didn't you ask
18 to see a copy of the plan?

19 **A Because at the time there was no action being**
20 **taken on his subdivision.**

21 **Q** No action has ever been taken, right?

22 **A Right.**

23 **Q** Other than to deny it?

24 **A Well, it wasn't -- it wasn't denied.**

25 **Q** Okay.

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1 **A It was being held up by a moratorium and then**
2 **things changed. Now we're into a land improvement.**

3 **Q** But things didn't change at the point we filed
4 this lawsuit, right? We weren't in land improvement when we
5 filed this lawsuit, were we?

6 **A No, no.**

7 **Q** Does that mean, I guess, that that plan is
8 still pending, the subdivision plan that was --

9 **A No, his other attorney said there will be no**
10 **subdivision. It was a land development and that is out.**

11 **Q** Okay.

12 **A No subdivision.**

13 **Q** And in fact at that April 2000 meeting Mr.
14 Corneal told you there was no subdivision, right?

15 **A Right.**

16 **Q** Now, I think you had indicated that the
17 conservation district had expressed some concern about
18 wetlands, right?

19 **A That concern came when they became aware of**
20 **that, which I'm assuming I initiated with Andy, because he**
21 **had sent us a letter that they had issued a stream crossing**
22 **permit and he wasn't familiar with the area.**

23 **And when him and I talked, he sent one of his**
24 **representatives out, I believe Dave Kreamer, one of his**
25 **associates, to check it out, but I -- I have -- to this day**

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1 **I have never seen a permit for a stream crossing, other than**
2 **the letter from the county conservation district.**

3 **Q** So you're indicating that they had issued a
4 stream crossing permit to Mr. Corneal?

5 **A Mr. McClintic was on -- the name on it.**

6 **Q** So are you saying now that you initiated the
7 complaint with the conservation district?

8 **MR. SHERR:** Object to the form of the
9 question. Misstating his testimony.

10 **MS. MONTGOMERY:** I'm asking him what he said.

11 **MR. SHERR:** Misstating -- you're stating what
12 he said and that's incorrect what he said.

13 **BY MS. MONTGOMERY:**

14 **Q** I said are you saying now -- do you understand
15 my question? You just used the word I'm assuming I
16 initiated the complaint and I'm trying to get you to tell me
17 what you meant by that.

18 **MR. SHERR:** And I'm going to have to object
19 again because it's not what he said and the record will
20 reflect what he said --

21 **MS. MONTGOMERY:** What did he say?

22 **MR. SHERR:** -- and he did not say that.

23 **MS. MONTGOMERY:** What did he say?

24 **MR. SHERR:** The record will reflect what he
25 said.

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1 **MS. MONTGOMERY:** Well, what did he say? You
2 know that's not what he said so you must know what he did
3 say. What did he say?

4 **MR. SHERR:** I do, but I'm not going to answer
5 your questions.

6 **MS. MONTGOMERY:** Well, then don't object.

7 **MR. SHERR:** I'm --

8 **MS. MONTGOMERY:** Don't object. Keep going,
9 Mr. --

10 **MR. SHERR:** I'll absolutely object.

11 **BY MS. MONTGOMERY:**

12 **Q** Mr. Wilson, are you confused by my question at
13 all?

14 **A Yeah. I said that maybe -- I don't recall,**
15 **but maybe I initiated the call to Andy Patterson at the**
16 **conservation district because I was shocked that they had**
17 **issued a stream crossing permit for a high quality trout**
18 **stream.**

19 **And he said, well, we just normally do those**
20 **things unless there's a problem and then we deal with it.**
21 **Well, then when the wetland issue came up, that struck a**
22 **light with him and he sent those guys out. And from what I**
23 **gather, when they came out they came with the Corps of**
24 **Engineers too. I -- I assume that.**

25 **Q** Have you ever done that in the past, called

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1 the conservation district when you hear that they've issued
2 a permit for a stream crossing?
3 A I call the -- yes.
4 Q You have. In what instance did you do that?
5 A On occasions that I had to have a permit to
6 cross streams with my business.
7 Q Who issues -- is it the conservation district
8 that issues the stream crossing permit?
9 A Yes.
10 Q So that's a little bit different than the
11 question that I asked you. My question is: Did you ever
12 call to inquire or express a concern to the conservation
13 district after hearing that they had issued a stream
14 crossing permit to somebody else? Did you ever do that?
15 A We have never had one.
16 Q You never had one?
17 A There's never been another stream crossing
18 permit issued in our township.
19 Q Other than the ones that are issued to you for
20 your business?
21 A And for McClintic.
22 Q And for McClintic, I see.
23 A Well, I -- let me clarify that. I'm only one
24 contractor, okay. I'm -- I'm trying to -- I'm trying to
25 juggle these things of my work and what we're talking about

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1 here, but I was under the impression the way you talked of
2 how familiar I was with the conservation district and their
3 permits.
4 Q Well, really I was just saying -- it sounds to
5 me like in response to the conservation district issuing
6 McClintic a stream crossing permit you called the
7 conservation district --
8 A No, I didn't --
9 Q -- to express a concern.
10 A -- know he issued that until they sent a
11 letter out and then we got the feedback from the county
12 about the potential wetlands. That's when it tied together.
13 Q I see. So when you got the feedback from the
14 county and you knew about the stream crossing permit because
15 the conservation district had issued you a letter on that --
16 A Yes.
17 Q -- then you called them up and said do you
18 know about these wetlands on the Corneal property?
19 A Yes.
20 Q Is that what you did?
21 A And the answer was they'd never been on the
22 property, they didn't know. So they came out to investigate
23 to see if they had to pull the stream crossing permit.
24 Q From McClintic?
25 A Right, because if he was going to infringe

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1 upon wetlands -- see, they issue these on trust in there,
2 which surprised me with high quality water, but if there is
3 a problem attached with that that they find out later,
4 they'll pull the permit.
5 Q Well, who's McClintic?
6 A I don't -- a friend of Mr. Corneal's, I
7 believe.
8 Q So Mr. McClintic that you're talking about got
9 a stream crossing permit in connection with Mr. Corneal's
10 property, right?
11 A Yes.
12 Q To cross a stream on Mr. Corneal's property?
13 A Yes.
14 Q Now, let me ask you something. Have you
15 performed some work on some property owned by a gentleman
16 named Weaver or a family named Weaver --
17 A Bob?
18 Q -- close to Mr. Corneal's property?
19 A Yes.
20 Q You've performed some work on his property, on
21 Weaver's property?
22 A Yes.
23 Q Did you get a stream crossing permit in
24 connection with that job?
25 A That wasn't near a stream.

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1 Q You weren't near a stream. You didn't have to
2 cross a stream?
3 A No.
4 Q Did you have to cross wetlands in connection
5 with that job?
6 A No. Well, hold it, who are you talking
7 about? Are you talking about Bob or are you talking about
8 Adam?
9 Q Well, if there's a different Weaver that we're
10 talking about, then we'll talk about --
11 A I've done work for the son and the father.
12 Q In connection with either of the Weavers and
13 their properties --
14 A Well, clarify. Adam Weaver, we put a three or
15 four foot culvert across a ditch and, yes, I did contact the
16 conservation district for that.
17 Q Did you get a stream crossing permit?
18 A I didn't need one, the stream was dry. He
19 come out and looked at it and said to put it in.
20 Q Did you have to go near any wetlands to do
21 that?
22 A No. I work --
23 Q Go ahead.
24 A I work closely with the conservation
25 district. They've told me if we have to come out you're

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1 going to pay money, call us first.
2 Q So once you got that letter from the
3 Huntingdon County Planning Commission that indicated there
4 were some wetlands around the Corneal property, although
5 none of the lots, the proposed lots were on the wetlands,
6 correct?
7 A **(Witness nods head affirmatively.)**
8 Q And once you called the Huntingdon -- once you
9 called the conservation district and said, you know, you
10 issued a stream crossing permit on the Corneal property, did
11 you know there was wetlands, did you have any concerns after
12 that that there was any problem with Mr. Corneal's wetlands
13 or with -- I should say did you have any concerns after that
14 that there were problems with wetlands being affected on Mr.
15 Corneal's property?
16 A **Once I talked to the conservation district,**
17 **it's whatever their determination is satisfies the township.**
18 Q What did they decide, do you know?
19 A **I never got a letter.**
20 Q Did you get a report from the Army Corps of
21 Engineers?
22 A **No.**
23 Q You didn't get a letter from the conservation
24 district either?
25 A **There may have been a letter come in from**

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1 **Andy, but I don't recall.**
2 Q Did you call them back and say, hey, what did
3 you figure out out there on the Corneal property?
4 A **No.**
5 Q Do you know whether the conservation district
6 found it necessary to pull the stream crossing permit?
7 A **No.**
8 Q To be clear, are you saying you don't know or
9 no, they didn't find it necessary?
10 A **I don't know.**
11 Q You don't know. Did you call them back to
12 find out whether they had to pull that permit or not?
13 A **I have to talk to them on Monday. I haven't**
14 **-- I didn't call them back.**
15 Q You have to talk to him on this Monday you
16 mean?
17 A **This coming Monday, yes.**
18 Q But how long ago did you call him about that
19 wetland concern of yours?
20 A **Well, apparently it was after this letter.**
21 Q So it was like a year ago?
22 A **Yeah.**
23 Q Did you ever talk to the sewage enforcement
24 officer about any concern over wetlands on the Corneal
25 property?

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1 A **No.**
2 Q And I did say talk with so maybe I should say
3 did you ever communicate with him in any way or did he
4 communicate with you in any way about a concern over
5 wetlands on the Corneal's property?
6 A **No.**
7 Q Do you know whether he communicated or anybody
8 else -- do you know whether he communicated with anybody in
9 the township government or anybody in the township
10 government communicated with him about a concern over
11 wetlands?
12 A **I don't know.**
13 Q Did any of the other supervisors express any
14 concern to you about it?
15 A **No.**
16 Q How about Ann Wirth, did she express any
17 concern to you about wetlands?
18 A **No.**
19 Q So you didn't refuse to sign the sewage
20 modules because of a concern over wetlands, right?
21 A **Rephrase, please.**
22 Q You didn't refuse to sign Mr. Corneal's sewage
23 modules because of a concern over wetlands?
24 A **No.**
25 Q Let me ask you this: I hope I didn't ask you

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1 this before, and I apologize if I did, but has the board of
2 township supervisors ever refused to sign sewage modules
3 that had been approved by the sewage enforcement officer
4 other than Mr. Corneal's?
5 A **No, not that I know of.**
6 Q Now, did you have any involvement at all with
7 anybody concerning Mr. Corneal's request for a privy permit?
8 A **I called the sewage officer. I said you do**
9 **your job, that's what I told him.**
10 Q Did you have some reason to believe he wasn't
11 going to do his job?
12 A **Well, I know how persuasive some individuals**
13 **can be so I just reminded him he was an employee of the**
14 **township and he should do his job.**
15 Q Did you have some experience where Mr. Parks
16 didn't do his job in the past?
17 A **No.**
18 Q So when you told him to do his job, what did
19 you mean by that?
20 A **Make sure that he did his job, the**
21 **regulations, DEP.**
22 Q Did you tell him not to issue a privy permit
23 to Mr. Corneal?
24 A **I don't know.**
25 Q Did you tell him not to help Mr. Corneal in

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1 any way with respect to his attempt to get a privy permit on
2 his property?
3 **A No, as I said, I told him to do his job.**
4 **Q Did you tell him not to cut him any breaks?**
5 **A No exceptions. We don't give anybody else**
6 **exceptions, none here.**
7 **Q Do you ever recall advising Mr. Parks not to**
8 **make any exceptions for anybody else?**
9 **A No.**
10 **Q Do you ever recall telling Mr. Parks maybe you**
11 **could make an exception for somebody?**
12 **A No.**
13 **Q Let me ask you this: Did you ever find it**
14 **necessary in the past to call up Mr. Parks and say don't**
15 **make any exceptions?**
16 **A No. Ask me one more.**
17 **Q What?**
18 **A Ask me one more.**
19 **Q Well, I can't guess what question you want me**
20 **to ask. If you want to clarify your answer --**
21 **A Well, I'd like to clarify my answer there.**
22 **Q Okay.**
23 **A Ninety-eight percent of the sewage work done**
24 **in Jackson Township I'm with the sewage officer so I know**
25 **what he does, but I wasn't privy to being involved with more**

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1 work at Corneals. That's why I wanted to make sure.
2 **Q Oh, I see. So initially you had been doing**
3 **the work on the Corneal property, but then Mr. Corneal got**
4 **somebody else to do the property --**
5 **A Yes.**
6 **Q To do the work?**
7 **A Yes.**
8 **Q Do you know why Mr. Corneal got somebody else**
9 **to do the work?**
10 **A Well, I assume it was because I didn't get his**
11 **road done.**
12 **Q So you felt that nobody else could really work**
13 **with the sewage officer appropriately on Mr. Corneal's**
14 **property but you?**
15 **A Well, I'll tell you something, he wouldn't**
16 **have the trouble he has now if he had a competent**
17 **contractor. The first thing you do when you go in there**
18 **with equipment is you rope the area off that says sewage on**
19 **it so nobody can get on it. That's the first thing you do.**
20 **That's how he lost it. They drove over it.**
21 **But experienced contractors know this because**
22 **they've dealt with sewage officers that have had these**
23 **rejections before. You can't -- you can't work that area.**
24 **That's a -- that's a sacred area.**
25 **Q So is it your testimony that Mr. Corneal's**

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1 subsequent contractor drove over a test pit or something?
2 **A Well, from what I -- was conveyed by the**
3 **sewage officer and Terry Williams the area has been driven**
4 **on and filled. There's maintenance roads or construction**
5 **roads or something in that area.**
6 **Q Did they tell you there's no other suitable**
7 **test site for Mr. Corneal to install a septic system for a**
8 **house?**
9 **A No.**
10 **Q Did they tell you there is another suitable**
11 **test site?**
12 **A There's lots.**
13 **Q There's lots. Okay, thanks. Did you ever**
14 **tell Mr. Parks that you weren't going to issue Mr. Corneal**
15 **-- or you weren't going to approve Mr. Corneal's sewage**
16 **modules?**
17 **A I'm sorry?**
18 **Q Did you ever tell Mr. Parks that you weren't**
19 **going to approve Mr. Corneal's sewage modules despite the**
20 **fact that he'd approved them?**
21 **A I don't recall.**
22 **Q Did you ever discuss with Mr. Parks that he**
23 **shouldn't issue a sewage permit because you weren't going to**
24 **approve -- the board of supervisors wasn't going to approve**
25 **the sewage module?**

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1 **A I don't recall.**
2 **Q Did you ever discuss the board's refusal to**
3 **sign Mr. Corneal's sewage module with Mr. Parks at all?**
4 **A I don't recall.**
5 **Q Did you ever discuss the board's refusal to**
6 **sign the sewage module with anybody else?**
7 **A No.**
8 **Q How about with Larry Newton?**
9 **A No.**
10 **Q Has the board ever approved any other**
11 **applications for privy permits?**
12 **A Yes.**
13 **Q How many, do you recall?**
14 **A I don't know.**
15 **Q Do you think you do one or two a year, more?**
16 **A I don't know.**
17 **Q What's your understanding of why the sewage**
18 **enforcement officer wouldn't issue Mr. Corneal a privy**
19 **permit?**
20 **A I -- I don't know. I assume that there was**
21 **concern of water.**
22 **Q Are you aware of whether or not the Corneals**
23 **sought the issuance of a privy permit just so that they**
24 **could build -- finish their art studio and have something up**
25 **there to use while they were up there? Do you know anything**

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1 about that?
2 **A No.**
3 **Q** Did you ever instruct anybody not to issue a
4 privy permit no matter what Mr. Corneal asked for it for?
5 **A No.**
6 **Q** How long was your conversation with Mr. Parks
7 when you called him and said you do your job?
8 **A I don't know. I don't know.**
9 **Q** What did Mr. Parks say back to you?
10 **A Okay.**
11 **Q** He said okay?
12 **A Yeah.**
13 **Q** Do you know whether anybody else called Mr.
14 Parks in connection with the privy permit or the request for
15 a privy permit?
16 **A I don't know.**
17 **Q** How did the privy permit come to your
18 attention? Did Mr. Corneal come into the township
19 supervisors and ask for it initially?
20 **A I -- I believe the meeting that he was at --**
21 **the last meeting he was at he asked for a privy permit.**
22 **Q** Is that the meeting in April 2000?
23 **A I believe.**
24 **Q** So was it after that meeting that you called
25 Barry Parks and told him to do his job?

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1 **A It would have to have been, yes.**
2 **Q** Was it that night?
3 **A I don't recall.**
4 **Q** Well, isn't it -- I mean, did you understand
5 that Mr. Corneal was asking you for a privy permit because
6 you wouldn't sign the sewage modules?
7 **A Yes.**
8 **Q** So he was just looking for something so he
9 could use his property, correct?
10 **A Yeah.**
11 **Q** And you said no? You told Mr. Parks to say
12 no, right?
13 **A I told Mr. Parks to do his job.**
14 **MR. SHERR:** Object to the form.
15 **BY MS. MONTGOMERY:**
16 **Q** Did you ever interfere or oversee Mr. Parks in
17 his work in connection with anybody else's requests for a
18 privy permit?
19 **MR. SHERR:** Object to the form of the
20 question. It assumes facts not in evidence. You can
21 answer.
22 **THE WITNESS:** I don't know how many privy
23 permits have been issued in Jackson Township. We deal with
24 them all the time because of the camps, the hunting lodges,
25 the fishing lodges that are back in the mountain. DEP

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1 requires those. So we had to update our ordinance to get
2 some uniformity in the regulation of the township concerning
3 the maintenance of these privies and holding tanks.
4 **BY MS. MONTGOMERY:**
5 **Q** Well, let me just clarify now. Mr. Parks is
6 the one who issues privy permits, right?
7 **A Yes.**
8 **Q** My question is: Did you ever find it
9 necessary to contact Mr. Parks personally about anybody
10 else's request for a privy permit?
11 **A No.**
12 **Q** Now, after that time that you talked to Mr.
13 Van Dommelen on the telephone when he called you because Mr.
14 Corneal had come out and asked for an application for a
15 building permit, have you talked to Mr. Van Dommelen since
16 then in any conversation, in any telephone discussion,
17 chance meeting, formal meeting, any way whatsoever about Mr.
18 Corneal's property?
19 **A No.**
20 **Q** Has he contacted you to ask you any questions
21 about it?
22 **A No.**
23 **Q** Has he contacted the township supervisors
24 generally?
25 **A Not unless there's a question with the**

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1 regulations.
2 **Q** What do you mean by that?
3 **A Something that he doesn't understand with the**
4 **regulation to issue a permit and -- and you just said permit**
5 **-- no, I'm sorry, you said application.**
6 **Q Yes.**
7 **A When the phone call came in, it was to give**
8 **Mr. Corneal a building permit. Nothing was said about an**
9 **application.**
10 **Q** But Mr. Corneal didn't have an application;
11 isn't that correct?
12 **A He could have -- he should have been issued an**
13 **application.**
14 **Q** Do you know who Mr. Corneal has to go to for
15 an application?
16 **A Yeah, Dave Van Dommelen.**
17 **Q** Do you think it would be appropriate for Mr.
18 Van Dommelen to say no, I'm not going to give you an
19 application?
20 **A That wouldn't be appropriate, but we're doing**
21 **a play on words here. You're talking about a permit.**
22 **Q** But he can't --
23 **A He can't have --**
24 **Q** He can't get a permit without an application,
25 correct?

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1 A Right, but I never heard anything about
2 application, all I heard was permit.
3 Q But you told him not to -- you told Mr. Van
4 Dommelen not to issue him a permit, correct?
5 A Correct.
6 Q Does that mean Mr. Van Dommelen should have
7 said no, you can't even have an application?
8 A I don't know what -- what he would do in that
9 situation.
10 Q Well, would it have been right for him to say
11 no, I'm not even going to give you an application?
12 A No.
13 Q Do you hire Mr. Van Dommelen? Is it the
14 township supervisors who --
15 A The township board of supervisors hires him.
16 Q So you're his boss?
17 A One of them, yes.
18 Q So as his boss you think it wouldn't be
19 appropriate for him to refuse to just give the application,
20 correct?
21 A I don't know. Something seems strange.
22 Q What seems strange?
23 A Well, there's this -- I got a call about a
24 permit and you're talking about the application. He should
25 -- an application should be issued to anybody and then it's

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1 A On my freezer and I keep glancing at it every
2 time I go back the hall, yeah.
3 MS. MONTGOMERY: I'm going to take just a
4 three minute break here with my colleagues and I think we
5 may be finished with you, but we'll check it out and get
6 right back to you.
7 (Break taken at 2:27 p.m. until 2:32 p.m.)
8 BY MS. MONTGOMERY:
9 Q Mr. Wilson, I'm just going to take you through
10 a few documents that have already been marked at prior
11 depositions. The first has been marked Wirth 4. It's the
12 July 10, 2000 minutes, I believe, and I'll let you look at
13 them and tell me if you recognize those minutes.
14 A That looks correct.
15 Q So those minutes reflect that it was on July
16 10, 2000 at the board of supervisor's meeting that you
17 passed your subdivision and land development ordinance for
18 Jackson Township, correct?
19 A Plus the others, yes.
20 Q Plus the other ordinances?
21 A Yes.
22 Q The driveway ordinance and which other one?
23 A Holding tank and privy.
24 Q Thank you. Now I'm going to show you a
25 document that has been marked as Wirth Exhibit 3 in the past

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1 -- then it's checked out. If it conforms with the
2 regulations, then the permit is issued.
3 Q Is this the first time that you ever heard
4 that Mr. Van Dommelen refused to give an application to Mr.
5 Corneal?
6 A Today?
7 Q Yes.
8 A Yes.
9 Q This is the first time you ever heard it?
10 A Application. That was the keyword, right?
11 Q Yes.
12 A Yes, okay.
13 Q Did you say you read the complaint in this
14 matter?
15 A Huh?
16 Q Did you say you read the complaint in this
17 matter, in this lawsuit?
18 MR. SHERR: Do you understand what a complaint
19 -- what she's talking about?
20 THE WITNESS: The July -- the July 4th
21 delivery? I've read it a couple times and I -- honestly I
22 can't tell you what it says, I'm sorry.
23 BY MS. MONTGOMERY:
24 Q It's the document that you keep sitting on
25 your freezer and keep looking at?

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1 and ask you to look at that. Look at it and then tell me
2 whether you've seen that document before.
3 A No.
4 Q You have not seen it before?
5 A No.
6 Q Well, I'm going to represent to you -- well,
7 actually ask you to look at it and tell me what it is. Now
8 that you're looking at it, do you know what it is?
9 A Well, it says it's an application for a
10 building permit.
11 Q By whom?
12 A There's no signature on it.
13 Q Is it filled out, in any event?
14 A Yes.
15 Q Who's it filled out by, does it look like?
16 A I don't know.
17 Q Let me see it, please. When you say that it's
18 not signed, what's that on the bottom left-hand -- bottom
19 right-hand corner?
20 A Well, that's not signed where the permit
21 officer is supposed to sign. I don't know what that is.
22 That's -- it looks like Mrs. Corneal's signature.
23 Q Mrs. Corneal or Mr. Corneal?
24 A Well, I don't know. I can make out Corneal.
25 It looks like Sandy or Sandra or something, Y.

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1 Q What's the date on the application?
2 A 8/31/00.
3 Q At the time that -- around August 31, 2000 did
4 you become aware that the Corneals had submitted
5 applications for building permits on their property?
6 A I don't remember.
7 Q I'm going to show you another document that
8 has been marked as Wirth Exhibit 14 and ask you to look at
9 that. There's a series of documents attached there.
10 (Pause.)
11 BY MS. MONTGOMERY:
12 Q You've finished reviewing Wirth Exhibit 14,
13 correct?
14 A Yes.
15 Q Do you recall seeing those documents in the
16 past?
17 A No.
18 Q Now, the cover letters that are part of that
19 Wirth Exhibit 14 are addressed to the township, correct?
20 A Yes.
21 Q Do you normally get documents addressed to the
22 township passed on to you once Miss Wirth gets them?
23 A Not unless there's a problem.
24 Q Did anybody tell you that the Corneals had
25 submitted applications for building permits for their

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1 representation you made is true but --
2 MS. MONTGOMERY: What's that?
3 MR. SHERR: I don't think that representation
4 you made is true. I think he was involved at least in the
5 fall of 2000, which would have been --
6 MS. MONTGOMERY: August 31, 2000 is the fall?
7 THE WITNESS: Yes.
8 MR. SHERR: It's pretty much ...
9 BY MS. MONTGOMERY:
10 Q Have you seen that document before, what's
11 been previously marked as Wirth 13?
12 A No.
13 Q What is that document?
14 A Well, it looks like a letter to the Corneals
15 from Dave Van Dommelen.
16 Q And what does it do?
17 A Denies the application.
18 Q Denies their building permit applications?
19 A Their applications have been denied,
20 applications.
21 Q Now, I note that this letter was written on
22 Jackson Township Board of Supervisor's letterhead, correct?
23 Does Mr. Van Dommelen have Jackson Township Board of
24 Supervisor's letterhead?
25 A He should have.

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1 property on the date of those letters -- around the time of
2 the date of the letters which is 8/31/2000?
3 A I don't remember that date.
4 Q It's accurate, isn't it, that those
5 applications for building permits are for a garage, an art
6 studio and a house, correct?
7 A Yes.
8 Q Do you know how those building applications --
9 or those applications for building permits were handled,
10 treated?
11 A No, I don't.
12 Q Do you know what the result was of the
13 applications?
14 A I don't know that either.
15 Q Were they granted?
16 A I don't know if Terry has them or not.
17 Q I show you a document --
18 A See, I'm -- I'm trying to keep between what
19 Terry has been doing and what we're doing now and I'm -- I
20 hope I'm okay -- I'm doing okay. I tried to explain.
21 Q This is quite a long time before Terry was
22 doing anything so let's try and take -- stick with this time
23 frame. I want to show you a document that has been marked
24 Wirth Exhibit 13.
25 MR. SHERR: I don't know if that

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1 Q Does he type his own letters, do you know?
2 A I think so.
3 Q Do you know -- he types them himself? He
4 actually gets on the computer or typewriter or something and
5 types it himself?
6 A I believe so.
7 Q Let me show you another document that's been
8 marked as Wirth 12 in the past. Have you seen that document
9 in the past?
10 A No, until I got to the meeting.
11 Q What is that document?
12 A It's an appeal.
13 Q Request for appeal?
14 A For a hearing for -- by the permits ordinance
15 and I believe that was one of the meetings held in the
16 Huntingdon County Courthouse to get things together or it
17 was generated from that with Terry.
18 Q So building appeal -- this is an appeal of the
19 denial of the building permit, right?
20 A That's what it says.
21 Q And this is signed by Terry Williams?
22 A Yes.
23 Q So is it your recollection that this is about
24 the time Terry Williams got involved in this matter?
25 A Apparently.

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1 Q That's November 10, 2000, correct?
2 A I'm -- yeah, I'm -- if my memory serves me
3 right, I think it was earlier than that. I -- because we
4 were supposed to have all this work cleaned up, everything
5 -- he said he wanted to have everything of Corneals in
6 order by the end of December and we didn't make that. So
7 we've had another hearing -- well, anyhow.
8 Q Well, in any event, have you ever had an
9 appeal of a refusal of a building permit in Jackson
10 Township?
11 A I'm not aware.
12 Q Do you know of any building permits that have
13 been denied in Jackson Township?
14 A I don't know.
15 Q Now, do you understand this to be a request
16 for a hearing on an appeal of the building permit -- a
17 denial of the building permit, right?
18 A Yes.
19 Q Was there ever a hearing conducted on this
20 appeal?
21 A I don't know.
22 Q Did you contact Larry Newton about this
23 request for an appeal of the denial of Mr. Corneal's
24 application for a building permit?
25 A I don't recall.

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1 hearing to hear Mr. Corneal's appeal of the denial of his
2 application for a building permit, correct?
3 A As far as I know. I was never a party to
4 that.
5 Q Is it your understanding that it is the
6 township supervisors who would hear that appeal?
7 A Yes.
8 Q Do you ever recall Mr. Van Dommelen referring
9 to Mr. Corneal as a trouble-making yuppy from over the
10 mountain?
11 A I -- the first I knew about that was in the
12 complaint or on one of the -- one of the papers. I seen it
13 written down. It was the first I had seen that.
14 Q Did you ever refer to Mr. Corneal in that
15 fashion?
16 A I hope I'm a better person than that. Mr. --
17 even though Mr. Corneal and I don't talk much anymore, I
18 think we're still both gentlemen enough to talk to each
19 other.
20 MS. MONTGOMERY: I don't have any other
21 questions for you right now.
22 MS. YANKANICH: I have a couple questions for
23 you.
24
25 CROSS-EXAMINATION

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1 Q You mentioned something about a meeting in the
2 courthouse up in Huntingdon County. When was that meeting?
3 A I'm trying to get the date on that. The first
4 time I think it was Terry and Larry corresponded to set this
5 up but -- to get this thing moving.
6 Q Well, was that after the township sued the
7 Corneals in Huntingdon County Court?
8 A Yes.
9 Q So any meeting that you had in the Huntingdon
10 County Court offices or the courthouse didn't have anything
11 to do with their request for an appeal of their denial of
12 the application for building permits, did it?
13 A I don't know. All I -- all I can remember is
14 that Attorney Williams made several requests to try to get
15 these things altogether to get the Corneal land improvement
16 gone and completed and I -- I don't -- I just don't know the
17 dates.
18 Q Was that after say Christmas of 2000?
19 A It was before Christmas of 2000.
20 Q Did you bring an action against Mr. Corneal
21 after he requested an appeal of the denial of his
22 application for a building permit?
23 A I don't know the time frame there.
24 Q But just so we're clear, the township
25 supervisors did not actually get together and schedule a

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1
2 BY MS. YANKANICH:
3 Q In case I haven't introduced myself, I am
4 Jennifer Yankanich and I represent Larry Newton.
5 My first question is: There were several
6 times that Mr. Corneal came before the Jackson County Board
7 of Supervisors, the first being to get his subdivision plan
8 approved by the board and then he came for a -- to get his
9 sewer modules approved and the privy permit and so forth.
10 Do you remember those times?
11 A Yes.
12 Q During any of those meetings did you ever
13 temporarily stop the meeting or adjourn those meetings and
14 call Larry Newton to ask his advice on how to proceed?
15 A I don't recall doing that.
16 Q Do you recall any of the other supervisors
17 possibly calling Mr. Newton and asking his advice?
18 A No.
19 Q Do you recall at any time with respect to Mr.
20 Corneal's property calling Larry Newton and asking him on
21 how to proceed with respect to Mr. Corneal?
22 A I called -- when I say I called -- it may not
23 have been me. The board of supervisors called Larry to get
24 proceedings started against Mr. Corneal, some action from
25 Jackson Township. We were being pushed this way and there

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1 were violations of things in Jackson Township and we wanted
2 to know what we had to do so -- to get that lawsuit going.

3 Q So that was at the end when the lawsuit was
4 initiated?

5 A Yes.

6 Q Before that you don't remember any times that
7 you called Larry Newton to seek advice regarding Mr.
8 Corneal?

9 A No, normally we don't -- unless there's a
10 potential problem at a meeting -- because we don't have any
11 money, okay. We don't have Larry come out unless we expect
12 some problems. We can't afford him.

13 Q Do you recall ever asking Miss Wirth, Ann
14 Wirth, to make any calls to Larry Newton with respect to Mr.
15 Corneal?

16 A I may have. I don't know. I just -- I don't
17 recall, but if I was tied up, it's possible that I did that,
18 you know, find out when I could see him or something like
19 that.

20 Q Would that be with respect to filing a lawsuit
21 against Mr. Corneal?

22 A Well, any problems that we have. I'm usually
23 out -- gone all day and I'll -- I think that's -- maybe I'm
24 wrong, but I think that's what secretaries do. You call
25 them and say would you set this up for me or, you know,

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1 the township supervisors?

2 A There could be. That could be. I can't -- I
3 can't think of an instance, but as I -- as I said, I -- I
4 think the supervisors utilize that lady to the fullest
5 extent when she's trying to run her own business and we
6 appreciate her services. And it could be seven, eight
7 o'clock at night till -- I have some things on my mind and
8 I'll call and say, you know, did you know this or did you
9 hear anything about this, things that happen in the township
10 to keep me -- sort of keep me informed of what's going on.
11 There's 816 people, it's tough.

12 Q Well, then the answer is it could be that Miss
13 Wirth sometimes calls Larry Newton and seeks advice on
14 behalf of the township supervisors?

15 A Yes, yes.

16 MS. YANKANICH: I have a follow-up if you're
17 finished.

18
19 RECROSS-EXAMINATION

20
21 BY MS. YANKANICH:

22 Q Does Ms. Wirth have the authority to make a
23 phone call to Mr. Newton on your behalf without asking --
24 without being directed by you or any of the other
25 supervisors?

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1 would you find out when I can talk to so and so and these
2 type of things.

3 Q But her role there would be to set up a
4 meeting between you and Mr. Newton, not to seek Mr. Newton's
5 advice?

6 A Right.

7 Q Is that correct?

8 A Right.

9 Q Is it customary after the board meetings, the
10 regular board meetings the first Monday of each month, to
11 inform Mr. Newton of what happened during the meeting?

12 A No.

13 MS. YANKANICH: I don't have any further
14 questions.

15 MR. SHERR: No questions.

16 MS. MONTGOMERY: I just have one follow-up
17 question.

18
19 REDIRECT EXAMINATION

20
21 BY MS. MONTGOMERY:

22 Q Just to be sure that I understand your
23 testimony in response to Mr. Newton's counsel's inquiry
24 here, are there instances in which the secretary, Miss
25 Wirth, will call Larry Newton and seek advice on behalf of

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1 A No.

2 Q To your knowledge has there ever been an
3 instance that Ms. Wirth called Mr. Newton without being told
4 by you or one of the supervisors to do so with respect to
5 Mr. Corneal?

6 A Not that I know of.

7 Q So would you say that you're aware of any
8 conversations that Ms. Wirth has had with Mr. Newton
9 regarding Mr. Corneal?

10 A Any conversations between Larry's office and
11 the Jackson Township office would be available to the
12 supervisors.

13 Q How so?

14 A Written up or if we asked her to call in there
15 and find something out and then she would have a reply for
16 us, she would have it written down or say that, well, he
17 couldn't explain it all, you'll have to call him or go to
18 his office and those type of things.

19 Q Do you recall seeing any of these notes that
20 she made from a telephone call with Mr. Newton?

21 A No, she usually -- most of the time it's --
22 she'll call all supervisors and tell them what the
23 conversation was as soon as she's done. And with me it's
24 usually -- I'm usually the last one because I'm coming home
25 late in the evenings. So it's nothing for her at 8:30, nine

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1 o'clock to call and tell me this is what -- you know, the
2 information you wanted from Larry or something like that.

3 Q The phone calls that you're referring to,
4 would these be phone calls -- and I may have already asked
5 you this. In reference to the litigation that was filed
6 against Mr. Corneal?

7 A Township business.

8 Q Township business in general?

9 A Yes.

10 Q And my final question is do you have any
11 specific recollection of a phone call that you asked Ms.
12 Wirth to make to Mr. Newton regarding David Corneal and his
13 property before litigation was commenced?

14 A No.

15 MS. YANKANICH: I don't have anything
16 further.

17 MS. MONTGOMERY: Okay, thanks.

18 (The deposition was concluded at 2:54 p.m.)

19

20

21

22

23

24

25

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1

2 COUNTY OF DAUPHIN

: SS

3 COMMONWEALTH OF PENNSYLVANIA

4 I, Teresa K. Bear, Reporter-Notary Public,
5 authorized to administer oaths within and for the
6 Commonwealth of Pennsylvania and take depositions in the
7 trial of causes, do hereby certify that the foregoing is the
8 testimony of W. THOMAS WILSON.

9 I further certify that before the taking of
10 said deposition, the witness was duly sworn; that the
11 questions and answers were taken down stenographically by
12 the said Teresa K. Bear, a Reporter-Notary Public, approved
13 and agreed to, and afterwards reduced to typewriting under
14 the direction of the said Reporter.

15 I further certify that the proceedings and
16 evidence are contained fully and accurately to the best of
17 my ability in the notes taken by me on the within
18 deposition, and that this copy is a correct transcript of
19 the same.

20 In testimony whereof, I have hereunto
21 subscribed my hand this 31st day of May, 2001.

22

23

24 _____
Teresa K. Bear, Reporter
Notary Public
My commission expires
25 on April 13, 2003

Exhibit 2

YODER, MICHAEL
05/18/01

CORNEAL VS
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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 VS : NO. 1:CV-00-1192
7 JACKSON TOWNSHIP, HUNTINGDON :
8 COUNTY, PENNSYLVANIA; W. :
9 THOMAS WILSON, individually :
10 and in his official capacity :
11 as Supervisor of Jackson :
12 Township; MICHAEL YODER, :
13 individually and in his :
14 official capacity as :
15 Supervisor of Jackson :
16 Township; RALPH WEILER, :
17 individually and in his :
18 official capacity as :
19 Supervisor of Jackson :
20 Township; BARRY PARKS, :
21 individually and in his :
22 official capacity as Sewage :
23 Enforcement Officer of :
24 Jackson Township; DAVID :
25 VAN DOMMELEN, individually :
26 and in his official capacity :
27 as Building Permit Officer; :
28 ANN L. WIRTH, individually :
29 and in her official capacity :
30 as Secretary of Jackson :
31 Township; and LARRY NEWTON, :
32 individually and in his :
33 official capacity as :
34 Solicitor to Jackson :
35 Township, :
36 DEFENDANTS :
37 DEPOSITION OF: MICHAEL YODER
38 TAKEN BY: PLAINTIFFS
39 BEFORE: TERESA K. BEAR, REPORTER
40 NOTARY PUBLIC
41 DATE: MAY 18, 2001, 2:57 P.M.
42 PLACE: ECKERT SEAMANS
43 213 MARKET STREET
44 HARRISBURG, PENNSYLVANIA

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| <p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2 ECKERT SEAMANS</p> <p>3 BY: BRIDGET E. MONTGOMERY, ESQUIRE</p> <p>4 LESLIE A. MALADY, ESQUIRE</p> <p>5 FOR - PLAINTIFFS</p> <p>6 MAYERS, MENNIES & SHERR, LLP</p> <p>7 BY: ANTHONY R. SHERR, ESQUIRE</p> <p>8</p> <p>9 FOR - ALL DEFENDANTS EXCEPT NEWTON</p> <p>10</p> <p>11 METTE, EVANS & WOODSIDE</p> <p>12 BY: JENNIFER YANKANICH, ESQUIRE</p> <p>13 FOR - DEFENDANT - LARRY NEWTON</p> <p>14 ALSO PRESENT:</p> <p>15 DAVID B. CORNEAL</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">4</p> <p>1 MICHAEL YODER, called as a witness, being</p> <p>2 sworn, testified as follows:</p> <p>3</p> <p>4 DIRECT EXAMINATION</p> <p>5</p> <p>6 BY MS. MALADY:</p> <p>7 Q Mr. Yoder, my name is Leslie Malady and I</p> <p>8 represent, along with Bridget Montgomery, Mr. and Mrs.</p> <p>9 Corneal in this lawsuit. Have you ever been deposed before?</p> <p>10 A No, I haven't.</p> <p>11 Q I'm going to run through a couple guidelines</p> <p>12 just to keep them in mind.</p> <p>13 A Okay.</p> <p>14 Q All your responses needs to be verbal for</p> <p>15 the --</p> <p>16 A Right.</p> <p>17 Q If you don't understand a question that I ask,</p> <p>18 I need you to tell me you don't understand it so I can</p> <p>19 rephrase it. If anything I say is unclear, please let me</p> <p>20 know and I'll try to make it more clear.</p> <p>21 I need you to let me ask my question and</p> <p>22 finish before you start to answer and I'll let you answer</p> <p>23 before I start to ask you another question so that she can</p> <p>24 get everything down that we say.</p> <p>25 Are you on any medication that would prevent</p> |
| <p style="text-align: right;">3</p> <p>1 TABLE OF CONTENTS</p> <p>2 WITNESS</p> <p>3 FOR PLAINTIFFS DIRECT CROSS REDIRECT RECROSS</p> <p>4 Michael Yoder</p> <p>5 By Ms. Malady 4 -- 75 --</p> <p>6 By Ms. Yankanich -- 67 -- 80</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">5</p> <p>1 you from giving deposition testimony?</p> <p>2 A No.</p> <p>3 Q Can you state your name for the record,</p> <p>4 please.</p> <p>5 A Michael -- full name?</p> <p>6 Q Sure.</p> <p>7 A Michael Rolland Yoder.</p> <p>8 Q Where do you live?</p> <p>9 A Huntingdon. I'm R.D. 2, Box 134, Huntingdon.</p> <p>10 Q Just to get started, would you explain your</p> <p>11 educational background.</p> <p>12 A I just have a -- high school graduation,</p> <p>13 that's it.</p> <p>14 Q Have you taken any post high school courses,</p> <p>15 any seminars?</p> <p>16 A No.</p> <p>17 Q Certifications, licenses?</p> <p>18 A No.</p> <p>19 Q How long have you lived in Jackson Township?</p> <p>20 A Forty-two years.</p> <p>21 Q Your whole life?</p> <p>22 A Yes.</p> <p>23 Q Have you always lived at the same location?</p> <p>24 A The next door farm is the home farm.</p> <p>25 Q Are you presently a member of the Jackson</p> |

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| <p style="text-align: right;">6</p> <p>1 Township Board of Supervisors?</p> <p>2 A Yes, I am.</p> <p>3 Q Are you the chairman of the board?</p> <p>4 A I am at this time, yes.</p> <p>5 Q And when were you made chairman?</p> <p>6 A Just this past January.</p> <p>7 Q And last year who was the chairman?</p> <p>8 A Ralph Weiler.</p> <p>9 Q How long have you been a supervisor for</p> <p>10 Jackson Township?</p> <p>11 A This will be just over three years.</p> <p>12 Q And how long does your term last?</p> <p>13 A I have four more years.</p> <p>14 Q Let me ask you generally. I know that Jackson</p> <p>15 Township doesn't have many ordinances enacted, but what do</p> <p>16 you -- what is your understanding generally of the enactment</p> <p>17 of an ordinance? What do you understand your</p> <p>18 responsibilities as a supervisor to be?</p> <p>19 A I guess to enact an ordinance that suits our</p> <p>20 community, is all I, you know, can say.</p> <p>21 Q Are there any particular steps that you're</p> <p>22 aware of that need to be taken when you enact an ordinance?</p> <p>23 A I'm not that familiar with it. I know we had</p> <p>24 to approve it at a meeting, you know, and that type of thing</p> <p>25 and --</p> | <p style="text-align: right;">8</p> <p>1 A What type of ordinances suit our -- you know,</p> <p>2 our area and that type of thing.</p> <p>3 Q Now, did you personally go through all of</p> <p>4 those piles of information given to you?</p> <p>5 A No. I would say no.</p> <p>6 Q Do you know who did?</p> <p>7 A I know county planning reviewed all the</p> <p>8 ordinances that we compiled. I do know that.</p> <p>9 Q Did the supervisors as a group go through</p> <p>10 those?</p> <p>11 A Yeah, we went through it. Yes, I would say we</p> <p>12 went through it together, yeah.</p> <p>13 Q Did you or any of the supervisors actually</p> <p>14 type up that ordinance?</p> <p>15 A No.</p> <p>16 Q Do you know who did?</p> <p>17 A I'm sorry, I don't know.</p> <p>18 Q Would Ann Wirth have done that for you?</p> <p>19 A No, I don't believe, no.</p> <p>20 Q Do you know if the subdivision -- I'll just</p> <p>21 refer to it as the subdivision ordinance to shorten it up a</p> <p>22 little bit.</p> <p>23 A Okay.</p> <p>24 Q Do you know if that ordinance was advertised?</p> <p>25 A Yes, I do recall it was advertised, yes.</p> |
| <p style="text-align: right;">7</p> <p>1 Q When you approve it at a meeting, how do you</p> <p>2 approve it?</p> <p>3 A We ask for a motion and have it seconded.</p> <p>4 Q And then you take a formal vote?</p> <p>5 A Yes.</p> <p>6 Q If you enact an ordinance -- let me start that</p> <p>7 over again. When there is a motion made and a vote taken,</p> <p>8 is that recorded in the minutes of your meeting?</p> <p>9 A Yes, it is.</p> <p>10 Q So that if you enact something, there would be</p> <p>11 a record of it in the minutes of that meeting?</p> <p>12 A Yes. I would say yes.</p> <p>13 Q Let me start with your subdivision and land</p> <p>14 development ordinance. I think it was enacted in July of</p> <p>15 2000?</p> <p>16 A Correct.</p> <p>17 Q When did you start to put together that</p> <p>18 subdivision and land development ordinance?</p> <p>19 A I believe we started working on it summer and</p> <p>20 fall of 1999, I believe.</p> <p>21 Q And how did you go about compiling the</p> <p>22 ordinance?</p> <p>23 A Well, we worked with county planning quite a</p> <p>24 bit and they gave us a lot of information.</p> <p>25 Q What type of information?</p> | <p style="text-align: right;">9</p> <p>1 Q Was it advertised one time?</p> <p>2 A I believe we advertise two or three times.</p> <p>3 Q Do you know when those advertisements were</p> <p>4 done?</p> <p>5 A No, I can't tell you that, no.</p> <p>6 Q Do you know what newspaper they would have</p> <p>7 been advertised in?</p> <p>8 A Probably the Daily News, which is in</p> <p>9 Huntingdon.</p> <p>10 Q Do you know if the draft ordinance -- how many</p> <p>11 drafts would you say there were?</p> <p>12 A I don't know.</p> <p>13 Q Were those --</p> <p>14 A I don't recall, I should say.</p> <p>15 Q Were those drafts publicly available?</p> <p>16 A Yes, they were. I think they were, yes.</p> <p>17 Q Do you know where they were publicly</p> <p>18 available?</p> <p>19 A I believe at the township office.</p> <p>20 Q And the township office is where?</p> <p>21 A We rent Mrs. Wirth's office as a township</p> <p>22 office.</p> <p>23 Q What makes you think that they were publicly</p> <p>24 available?</p> <p>25 A I believe they were announced at the meetings</p> |

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| <p style="text-align: right;">10</p> <p>1 that they were available for -- you know, for people to 2 review them. I know several people did review them. 3 Q Were copies made available to the public? 4 A Yes. 5 Q Were those copies made available if someone 6 requested a copy at one of your meetings? 7 A Yes. 8 Q Did you have the copies physically at the 9 meetings with you? 10 A No, I would say not. 11 Q And that ordinance -- I'm sorry, the drafts 12 that were available, was each successive draft publicly 13 available? 14 A No, I don't recall that. I don't recall. 15 Q Was there a public hearing held on your 16 subdivision ordinance? 17 A There was one I recall. 18 Q When was that held? 19 A I don't know. It may have been held in June 20 of 2000, I believe. 21 Q Now, was that meeting in June, was that a 22 public hearing? 23 A No, I can't -- I don't recall if it was a 24 public hearing. 25 Q Do you know if the meeting in June was</p> | <p style="text-align: right;">12</p> <p>1 imagine it was a supervisor. 2 Q Did you initiate that conversation? 3 A I don't -- no. I would say no. 4 Q Did Ann Wirth initiate the conversation? 5 A No, I can't -- I can't tell you who it was. I 6 don't know. I don't know. 7 Q Do you recall any conversations regarding the 8 moratorium occurring prior to that meeting in January 2000? 9 A At a meeting, at a public meeting or anytime? 10 Q Anytime, informal, formal, in any setting. 11 A Concerning the moratorium, you're saying? 12 Q Correct. 13 A Yes, I would say there was discussion. 14 Q What was the content of that discussion? 15 A I don't recall, I really don't. 16 Q But you recall that it was -- 17 A I believe it was talked about, yes. 18 Q I'm sorry, that the moratorium was talked 19 about? 20 A Yes. 21 Q Who was present during that conversation? 22 A I really don't recall everybody, no. 23 Q Do you recall any of them? 24 A I would say the supervisors were there at 25 least, but I think there may have been more. I don't know.</p> |
| <p style="text-align: right;">11</p> <p>1 specially advertised? 2 A Yes, it was. It was advertised. 3 Q I want to be sure that I'm clear. The meeting 4 that you're referring to -- you mean the July meeting at 5 which it was passed? 6 A No, I'm sorry, it may have been July when we 7 adopted the ordinance. I'm not sure which month it is. 8 Q I've got a lot of documents. I'm going to 9 show you an exhibit marked as Wirth Exhibit 4. Could you 10 tell me if you've seen that document before? 11 A Yes, I recall seeing that. 12 Q And is this the meeting you were referring to? 13 A I believe it was, yes. Yes. 14 Q Now, I think that you testified that this 15 ordinance that was finally enacted in July of 2000 was 16 undertaken sometime in the fall of 1999; is that correct? 17 A I believe it was summer and fall we started 18 the process. 19 Q At the January meeting in 2000 was there a 20 discussion of the imposition of a moratorium on 21 subdivisions? 22 A Yes. 23 Q Did one of the supervisors initiate that 24 conversation? 25 A I don't really recall who it was, but I</p> | <p style="text-align: right;">13</p> <p>1 Q Do you recall if Ann Wirth was present at that 2 conversation? 3 A I would say yes. 4 Q Is it your recollection that all three of the 5 supervisors were present? 6 A Yes. 7 Q Do you remember when that conversation would 8 have occurred? And I'm not looking for a specific date. 9 A Probably in the fall of '99. 10 Q Do you remember what the impetus for the 11 discussion was? What prompted the discussion of a 12 moratorium? 13 A I can't really tell you what prompted it, no. 14 I don't know. 15 Q Prior to this January meeting in 2000 at which 16 the moratorium was discussed, did you call your solicitor 17 Larry Newton to discuss the moratorium? 18 A No. 19 Q Do you know if any of the supervisors called 20 him? 21 A No, I don't know. 22 Q Do you know if Ann Wirth called him? 23 A I don't know. I don't know. 24 Q Prior to your enactment of your subdivision 25 ordinance in July 2000, did you call Larry Newton to discuss</p> |

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| <p style="text-align: right;">14</p> <p>1 the subdivision ordinance?</p> <p>2 A No.</p> <p>3 Q Do you know if any of the supervisors did?</p> <p>4 A I don't know.</p> <p>5 Q Do you know if Ann Wirth did?</p> <p>6 A I don't know.</p> <p>7 Q Prior to the enactment of your subdivision</p> <p>8 ordinance can you tell me generally what the process for the</p> <p>9 submission of a subdivision application entailed, and I'm</p> <p>10 just looking for a very general process?</p> <p>11 A Right. I'll be honest with you, I was kind of</p> <p>12 new at it so I really couldn't -- I don't know. I was kind</p> <p>13 of new on the job.</p> <p>14 Q Are you aware that the township requires</p> <p>15 subdivision applicants to provide an application to the</p> <p>16 Huntingdon County Planning Commission prior to your review</p> <p>17 as a supervisor?</p> <p>18 A Was I aware of that?</p> <p>19 Q Yes.</p> <p>20 A No, I was not.</p> <p>21 Q When a subdivision application comes before</p> <p>22 you, what does it -- what does it entail, what is it</p> <p>23 comprised of, what do you review?</p> <p>24 A The map, that basically is what we review as</p> <p>25 far as the sewage and that type of thing, I believe.</p> | <p style="text-align: right;">16</p> <p>1 document that I'd like to show you. It's marked Parks</p> <p>2 Exhibit 7.</p> <p>3 (Pause.)</p> <p>4 BY MS. MALADY:</p> <p>5 Q Have you had an opportunity to review that</p> <p>6 document?</p> <p>7 A Prior to now?</p> <p>8 Q No, just now.</p> <p>9 A Yeah.</p> <p>10 Q Have you seen that document before today?</p> <p>11 A No.</p> <p>12 Q Is this the first time you've seen that</p> <p>13 document?</p> <p>14 A Yes, it is.</p> <p>15 Q Were you aware that that document was issued</p> <p>16 by the court in this matter?</p> <p>17 A Yes, I was aware, yes.</p> <p>18 Q So you're aware that the court has issued a</p> <p>19 sequestration order?</p> <p>20 A Yes.</p> <p>21 Q What does that -- what is your understanding</p> <p>22 of that order?</p> <p>23 A That the defendants are not allowed to be in</p> <p>24 this room at this time, the other defendants.</p> <p>25 Q Do you understand that that order also means</p> |
| <p style="text-align: right;">15</p> <p>1 Q When you receive that application is there --</p> <p>2 or are there letters from the Huntingdon County Planning</p> <p>3 Commission along with that ap or plan?</p> <p>4 A I believe sometimes we receive a map but then</p> <p>5 we tell them to send it onto the county.</p> <p>6 Q So it is your understanding that they need to</p> <p>7 submit that plan to the county --</p> <p>8 A That's correct.</p> <p>9 Q -- before you will approve it as a supervisor?</p> <p>10 A That's correct, yes.</p> <p>11 Q When you receive comments from the Huntingdon</p> <p>12 County Planning Commission on a subdivision application, do</p> <p>13 you -- let me go back. Prior to your approval or</p> <p>14 disapproval do you review the comments or the</p> <p>15 recommendations of the planning commission?</p> <p>16 A Yes.</p> <p>17 Q To your knowledge has the board of supervisors</p> <p>18 ever denied a subdivision application that the Huntingdon</p> <p>19 County Planning Commission has recommended approval of?</p> <p>20 A I really don't recall.</p> <p>21 Q To the best of your recollection has the board</p> <p>22 always approved a plan that the planning commission has</p> <p>23 recommended approval of?</p> <p>24 A I really don't know.</p> <p>25 Q Before I get into any specifics, I have a</p> | <p style="text-align: right;">17</p> <p>1 that you're not to talk to the other defendants regarding</p> <p>2 this deposition testimony?</p> <p>3 A Correct.</p> <p>4 Q Have you discussed your deposition today with</p> <p>5 any of the other defendants?</p> <p>6 A No, I haven't. This morning we had a meeting</p> <p>7 -- I'm sorry, we did have a meeting this morning, I'm</p> <p>8 sorry, with Mr. Sherr concerning the -- I guess the health</p> <p>9 of the one supervisor, is what it come down to.</p> <p>10 Q Was anything else discussed at that meeting</p> <p>11 regarding your deposition?</p> <p>12 MR. SHERR: Objection. I'm going to instruct</p> <p>13 you not to answer anything that -- where I was present and</p> <p>14 any conversations that took place while I was present</p> <p>15 because that's attorney/client privilege.</p> <p>16 BY MS. MALADY:</p> <p>17 Q Let me ask you this: During that conversation</p> <p>18 were any of the other defendants present?</p> <p>19 A Yes.</p> <p>20 Q And who was present?</p> <p>21 A Tom and Ann.</p> <p>22 Q I'm sorry, Tom Wilson and Ann Wirth?</p> <p>23 A Ann Wirth, yes.</p> <p>24 Q Let me ask you this: How did you get to</p> <p>25 Harrisburg today?</p> |

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| <p style="text-align: right;">18</p> <p>1 A Drive.</p> <p>2 Q Did you drive with anyone else?</p> <p>3 A Tom and Ann.</p> <p>4 Q Did you have lunch today?</p> <p>5 A Yeah, I guess you could say that, yeah.</p> <p>6 Q Who did you have lunch with today?</p> <p>7 A Tom and Ann.</p> <p>8 Q I'm going to show you what is marked as Wirth</p> <p>9 Exhibit 6. Take a minute to review that. What is that</p> <p>10 document?</p> <p>11 A It's minutes of a meeting, I believe.</p> <p>12 Q Have you seen that document before?</p> <p>13 A I don't recall, but I -- yes. I would say</p> <p>14 yes.</p> <p>15 Q And for the record those are the minutes of</p> <p>16 the January 4, 2000 meeting of the board of supervisors?</p> <p>17 A Correct.</p> <p>18 Q Is there an indication that at the January</p> <p>19 4th, 2000 meeting of the board the moratorium was discussed?</p> <p>20 A Yes, there is discussion.</p> <p>21 Q Is there any indication who initiated the</p> <p>22 discussion?</p> <p>23 A No.</p> <p>24 Q Is there any indication that a vote was taken</p> <p>25 on the moratorium?</p> | <p style="text-align: right;">20</p> <p>1 conversations with the board members?</p> <p>2 A I don't recall.</p> <p>3 Q Did the Hewetts attend any of the board of</p> <p>4 supervisor's meetings?</p> <p>5 A Yes.</p> <p>6 Q Did they speak at any of those meetings?</p> <p>7 A I really don't recall.</p> <p>8 Q Was Mr. Corneal present at the same meetings?</p> <p>9 A The same meetings?</p> <p>10 Q Yes.</p> <p>11 A I don't know.</p> <p>12 Q Was Mr. Corneal present at the meetings which</p> <p>13 the Hewetts were present?</p> <p>14 A I don't recall that either.</p> <p>15 Q Do you recall Mr. Corneal being present at any</p> <p>16 of your board meetings?</p> <p>17 A Yes, I recall.</p> <p>18 Q Do you recall which meetings he was present</p> <p>19 at?</p> <p>20 A I believe it was the February meeting. I</p> <p>21 recall that one.</p> <p>22 Q And that would be February 2000?</p> <p>23 A Yes.</p> <p>24 Q What do you recall about that meeting?</p> <p>25 A I believe he presented something to us about</p> |
| <p style="text-align: right;">19</p> <p>1 A No.</p> <p>2 Q Thank you. Do you recall who was present at</p> <p>3 the January 4th, 2000 meeting of the board?</p> <p>4 A All the supervisors and the secretary, I</p> <p>5 imagine.</p> <p>6 Q Any members of the public that you recall?</p> <p>7 A I can't recall names specifically, no.</p> <p>8 Q Do you have any idea approximately how many</p> <p>9 people were there from the public?</p> <p>10 A No, I couldn't -- I don't know.</p> <p>11 Q Do you know the Hewetts?</p> <p>12 A Not personally, no.</p> <p>13 Q Are you familiar with them?</p> <p>14 A No. I've met them, but I'm not familiar.</p> <p>15 Q Are you aware of the agreement that they had</p> <p>16 entered into with Mr. Corneal?</p> <p>17 A No.</p> <p>18 Q You were not aware that they had entered into</p> <p>19 an agreement to purchase a portion of Mr. Corneal's</p> <p>20 property?</p> <p>21 A Yeah, I believe I did know that, that they</p> <p>22 were in that type of agreement.</p> <p>23 Q Do you recall how you became aware of that?</p> <p>24 A No, I don't recall that.</p> <p>25 Q Was the Hewetts' agreement the subject of any</p> | <p style="text-align: right;">21</p> <p>1 subdivision at that time.</p> <p>2 Q He presented a subdivision plan to the board</p> <p>3 of supervisors?</p> <p>4 A We didn't see no plan but he had something</p> <p>5 with him.</p> <p>6 Q Did he attempt to give the board the plan?</p> <p>7 A I don't really recall, no.</p> <p>8 Q Do you recall what the response from the board</p> <p>9 was?</p> <p>10 A That there is a moratorium, I believe.</p> <p>11 Q Was anything else said with regard to his</p> <p>12 plan?</p> <p>13 A No, I don't believe, no.</p> <p>14 Q Do you recall that he was prompted to take</p> <p>15 that plan to the county planning commission?</p> <p>16 A I believe, yes.</p> <p>17 Q Did you tell him to take it to the county?</p> <p>18 A I don't know who did. I didn't.</p> <p>19 Q Did the board of supervisors review the</p> <p>20 subdivision plan that Mr. Corneal brought to the February</p> <p>21 2000 meeting?</p> <p>22 A No.</p> <p>23 Q Did the board have any conversations regarding</p> <p>24 Mr. Corneal's subdivision plan following that February</p> <p>25 meeting?</p> |

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| <p style="text-align: right;">22</p> <p>1 A I don't recall.</p> <p>2 Q Did Ann Wirth have any conversations with the</p> <p>3 board of supervisors regarding Mr. Corneal's subdivision</p> <p>4 plan?</p> <p>5 A I don't recall.</p> <p>6 Q I'm going to show you an exhibit marked as</p> <p>7 Wirth Exhibit 11. This is a letter dated February 24th from</p> <p>8 the Huntingdon County Planning Commission. Have you seen</p> <p>9 that document before?</p> <p>10 A I really don't recall.</p> <p>11 Q You don't recall seeing it?</p> <p>12 A No.</p> <p>13 Q Do you recall Mr. Corneal submitting a revised</p> <p>14 subdivision plan to the board of supervisors?</p> <p>15 A I really don't recall.</p> <p>16 Q Let me ask you this: At the February meeting</p> <p>17 when Mr. Corneal submitted his -- or attempted to submit his</p> <p>18 first subdivision plan, did you tell him that there was a</p> <p>19 moratorium in effect?</p> <p>20 A Personally, no.</p> <p>21 Q Do you know who did?</p> <p>22 A I don't -- I don't recall that.</p> <p>23 Q In response to the board informing Mr. Corneal</p> <p>24 that there was a moratorium in effect, do you recall if he</p> <p>25 had any response?</p> | <p style="text-align: right;">24</p> <p>1 April 3rd, 2000 meeting?</p> <p>2 A Yes, I believe, yes.</p> <p>3 Q And what do you recall about Mr. Corneal's</p> <p>4 presence at that meeting?</p> <p>5 A That he is applying for a privy permit there.</p> <p>6 Q Do you recall that he discussed sewage modules</p> <p>7 that he wanted the board to approve?</p> <p>8 A I don't recall that.</p> <p>9 Q Do you recall Mr. Corneal having sewage</p> <p>10 modules that he wanted the board to approve?</p> <p>11 A I don't recall.</p> <p>12 Q Do you recall seeing sewage modules signed by</p> <p>13 Barry Parks for the property owned by Mr. Corneal?</p> <p>14 A No.</p> <p>15 Q I'm going to show you what was marked as Parks</p> <p>16 Exhibit 3, if you would take a minute and review that. Is</p> <p>17 that document familiar to you?</p> <p>18 A No, it isn't.</p> <p>19 Q Can you tell me what that document is?</p> <p>20 A It's the sewage module, I guess.</p> <p>21 Q Do you know who it was submitted by? Is there</p> <p>22 an indication on the document who it was submitted by?</p> <p>23 A Mr. Corneal.</p> <p>24 Q Is this the first time you've ever seen that</p> <p>25 document?</p> |
| <p style="text-align: right;">23</p> <p>1 A No, I don't recall that either.</p> <p>2 Q Do you recall Mr. Corneal informing the board</p> <p>3 at any time that the moratorium that the board enacted was</p> <p>4 illegal?</p> <p>5 A No, I don't recall that.</p> <p>6 Q Do you recall having a conversation with</p> <p>7 anyone wherein the moratorium was referred to as unlawful or</p> <p>8 illegal?</p> <p>9 A No.</p> <p>10 Q I'm sorry, I probably asked you this already.</p> <p>11 Had you discussed the moratorium with your solicitor prior</p> <p>12 to that January 4th, 2000 meeting?</p> <p>13 A Personally, no.</p> <p>14 Q Did any one of the board of supervisors?</p> <p>15 A I don't know.</p> <p>16 Q Did Ann Wirth?</p> <p>17 A I don't know.</p> <p>18 Q I'm going to show you what was marked as Wirth</p> <p>19 Exhibit 7.</p> <p>20 MS. MALADY: For the record, this document is</p> <p>21 the -- are the minutes of the April 3rd, 2000 meeting.</p> <p>22 BY MS. MALADY:</p> <p>23 Q Have you seen this document before?</p> <p>24 A I don't recall, but I would say yes, I have.</p> <p>25 Q Do you recall Mr. Corneal being present at the</p> | <p style="text-align: right;">25</p> <p>1 A I really don't recall.</p> <p>2 Q Back to the April 3rd meeting of the board of</p> <p>3 supervisors, do you recall why Mr. Corneal requested a</p> <p>4 privy? And please tell me if I'm misstating your</p> <p>5 testimony. It's my understanding that you testified that</p> <p>6 your recollection of this meeting was that Mr. Corneal had</p> <p>7 requested a privy permit; is that correct?</p> <p>8 A Yes, that's what it says.</p> <p>9 Q Do you have any independent recollection of</p> <p>10 that?</p> <p>11 A I don't -- I don't really recall, no.</p> <p>12 Q Do you recall Mr. Corneal's presence -- I'm</p> <p>13 sorry, let me rephrase that. Do you recall Mr. Corneal</p> <p>14 stating to the board that he was no longer going to</p> <p>15 subdivide his property?</p> <p>16 A At this meeting?</p> <p>17 Q Yes.</p> <p>18 A I really don't recall that.</p> <p>19 Q Do you remember Mr. Corneal -- let me start</p> <p>20 over. You recall the February 2000 meeting at which Mr.</p> <p>21 Corneal attempted to submit a subdivision application; is</p> <p>22 that correct?</p> <p>23 A Yes, I recall that.</p> <p>24 Q What other recollection do you have with</p> <p>25 regard to Mr. Corneal's attempt to subdivide his property?</p> |

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|---|---|
| <p style="text-align: right;">26</p> <p>1 A (Witness shook his head negatively.)</p> <p>2 Q Did you ever see him again?</p> <p>3 A Just at the two meetings.</p> <p>4 Q But you don't remember why he was at the</p> <p>5 second meeting?</p> <p>6 A The privy permit is all I know, what I read</p> <p>7 there.</p> <p>8 Q But you don't recall why he wanted one?</p> <p>9 A Not exactly, no.</p> <p>10 Q Inexactly do you remember why?</p> <p>11 A I believe he said something about his art</p> <p>12 studio. That's the only thing I can recall.</p> <p>13 Q What about his art studio?</p> <p>14 A He needed a privy permit for -- to serve him,</p> <p>15 I guess.</p> <p>16 Q Any indication as to why he would need a privy</p> <p>17 permit to service an art studio?</p> <p>18 A No.</p> <p>19 Q Were you curious at all why he didn't put in</p> <p>20 an on-lot system rather than request a privy permit?</p> <p>21 A I didn't ask him.</p> <p>22 Q Not curious?</p> <p>23 A I didn't ask him, no.</p> <p>24 Q What was the board's reaction to his request</p> <p>25 for a privy permit?</p> | <p style="text-align: right;">28</p> <p>1 Q But you said you knew that he had sewer</p> <p>2 modules.</p> <p>3 A Yeah, but I didn't know what he had as far as</p> <p>4 where he was at with it.</p> <p>5 Q How were you aware of the sewer modules?</p> <p>6 A I don't recall how I found that out.</p> <p>7 Q Did you discuss it with someone?</p> <p>8 A I really don't recall who it might have been.</p> <p>9 Q Was it Van Dommelen?</p> <p>10 A I don't know.</p> <p>11 Q Was it another member of the board?</p> <p>12 A I don't know who it was. It may have been a</p> <p>13 board member.</p> <p>14 Q Was it Ralph Weiler?</p> <p>15 A I really don't know which one it was.</p> <p>16 Q But it was one of -- either Mr. Weiler or Mr.</p> <p>17 Wilson?</p> <p>18 A I believe, yes.</p> <p>19 Q Do you recall the substance of the</p> <p>20 conversation regarding the sewage modules, Mr. Corneal's</p> <p>21 sewage modules?</p> <p>22 A No, I don't recall that.</p> <p>23 Q Are you familiar with Mr. Wilson's company</p> <p>24 Eagle Excavating?</p> <p>25 A Yes.</p> |
| <p style="text-align: right;">27</p> <p>1 A I believe it was denied.</p> <p>2 Q Did you tell him no yourself?</p> <p>3 A Yes, I think I said no.</p> <p>4 Q Why did you tell him no?</p> <p>5 A Specifically I can't tell you right now, no.</p> <p>6 Q Generally?</p> <p>7 A I believe he had -- already had on-lot modules</p> <p>8 there. I think he already had modules.</p> <p>9 Q How did you know that he had modules?</p> <p>10 A I don't recall that.</p> <p>11 Q I think you testified that you have never seen</p> <p>12 Mr. Corneal's application for sewage modules prior to today;</p> <p>13 is that correct?</p> <p>14 A I don't recall.</p> <p>15 Q Let me ask you this: So you denied Mr.</p> <p>16 Corneal's privy permit at the April 3rd, 2000 meeting</p> <p>17 because you knew that he had sewer modules; is that correct?</p> <p>18 A Yes, I believe that's what he said.</p> <p>19 Q Now, when you say sewer modules, you mean he</p> <p>20 had a pending sewer module -- a pending application for</p> <p>21 approval of sewer modules?</p> <p>22 A I don't recall what he had.</p> <p>23 Q What was your understanding then of the sewer</p> <p>24 modules that he had?</p> <p>25 A I had no understanding what he had really.</p> | <p style="text-align: right;">29</p> <p>1 Q How are you familiar with that company or what</p> <p>2 is -- let me ask you this: Does Eagle Excavating do a lot</p> <p>3 of excavation work in the township?</p> <p>4 A Yes. I would say yes.</p> <p>5 Q Does Eagle Excavating do a lot of the test pit</p> <p>6 digging for on-lot systems in the township?</p> <p>7 A I can't say how much. I don't know.</p> <p>8 Q Were you aware that Eagle Excavating performed</p> <p>9 the test pit digging on Mr. Corneal's property?</p> <p>10 A No.</p> <p>11 Q Mr. Wilson never discussed that with you?</p> <p>12 A If he did, I don't recall.</p> <p>13 Q Were you aware that Mr. Wilson as the</p> <p>14 president of Eagle Excavating performed perc testing with</p> <p>15 your sewage enforcement officer on Mr. Corneal's property?</p> <p>16 A No, I don't know anything about that.</p> <p>17 Q Did you ever have any conversation -- I'm</p> <p>18 sorry, you testified that you lived in Jackson Township?</p> <p>19 A Correct.</p> <p>20 Q Does Mr. Wilson live nearby?</p> <p>21 A No.</p> <p>22 Q How far from you is he?</p> <p>23 A Probably six mile maybe, something like that.</p> <p>24 Q Does Mr. Corneal live near you?</p> <p>25 A Probably the same distance.</p> |

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1 Q About six miles?
 2 A **Yeah, I would say.**
 3 Q Did Mr. Wilson and Mr. Corneal live near each
 4 other, if you know?
 5 A **I don't know. I don't know.**
 6 Q I just wondered since they were both six miles
 7 away.
 8 A **I don't know where Mr. Corneal lives so ...**
 9 Q Then you're not quite sure he's six miles from
 10 you?
 11 A **No, I don't know at all.**
 12 Q So I just want to be clear, you have
 13 testified, I believe, that you have no knowledge of Mr.
 14 Corneal's submission of an application for approval of a
 15 sewage module?
 16 A **I don't recall the sewage module application.**
 17 Q Do you recall another application?
 18 A **No.**
 19 Q Did the board of supervisors ever consider Mr.
 20 Corneal's sewer module application to the best of your
 21 knowledge?
 22 A **I don't recall.**
 23 Q Has Jackson Township ever granted a privy
 24 permit to anyone else, to any applicant? Let me reask
 25 that. Has anyone in Jackson Township ever applied to the

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1 board for a privy permit?
 2 A **Not that I recall in my time that I've been**
 3 **there.**
 4 Q You're not aware of a single --
 5 A **No.**
 6 Q -- application for a privy permit?
 7 A **(Witness shook his head negatively.)**
 8 Q Are you aware of any applications for a
 9 holding tank?
 10 A **I'm not aware of any, no.**
 11 Q And that's during your tenure as a board of
 12 supervisor's member?
 13 A **Yes.**
 14 Q Have you ever had any conversation with your
 15 sewage enforcement officer regarding Mr. Corneal's property?
 16 A **No.**
 17 Q Have you ever attended a meeting at which your
 18 sewage enforcement officer was present? Let me ask you this
 19 way: Has your sewage enforcement officer ever attended a
 20 board meeting, a board of supervisor's meeting?
 21 A **Several, yes. I don't know how many.**
 22 Q Were any of those meetings meetings at which
 23 Mr. Corneal's property was discussed?
 24 A **I really don't recall that.**
 25 Q Were you aware that your sewage enforcement

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1 officer approved Mr. Corneal's sewer module application?
 2 A **No.**
 3 Q Is this the first time you've heard about
 4 that?
 5 A **I guess I'm just not that interested, I guess,**
 6 **really, when it comes down to it.**
 7 Q Did you receive a copy of the complaint filed
 8 in this matter --
 9 A **Yes.**
 10 Q -- by Mr. Corneal?
 11 A **Yes.**
 12 Q Did you read that complaint?
 13 A **I read over it, yes. I don't understand**
 14 **everything.**
 15 Q Were you aware that Mr. Corneal applied for
 16 building permits for his property?
 17 A **Yes, I believe I heard that, yes.**
 18 Q And how did you hear that?
 19 A **I believe it was at a meeting we discussed it**
 20 **maybe. I don't know.**
 21 Q We includes who?
 22 A **Probably all the supervisors.**
 23 Q Would Ann Wirth have been present?
 24 A **Yes. I would say yes.**
 25 Q Would Mr. Van Dommelen have been present?

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1 A **I don't know. He's not at every meeting so I**
 2 **don't know.**
 3 Q Was your solicitor present?
 4 A **I don't know that.**
 5 Q Do you recall when that meeting occurred?
 6 A **No, I don't recall.**
 7 Q Was it summer?
 8 A **I really couldn't recall when it was.**
 9 Q Did you have shorts on?
 10 A **I don't wear shorts.**
 11 Q Okay. Did you have a coat on?
 12 A **I don't recall.**
 13 Q What was the substance of the conversation
 14 regarding the building permit?
 15 A **I really don't recall what the substance was.**
 16 Q Who began the conversation?
 17 A **I don't know that either.**
 18 Q What was discussed generally?
 19 A **That he asked for an application for a**
 20 **building permit, that's all I recall.**
 21 Q And what was the result of his request for an
 22 application?
 23 A **As I recall, it was denied.**
 24 Q The application was denied?
 25 A **I think the building permit was denied. I'm**

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|---|--|
| <p style="text-align: right;">34</p> <p>1 not sure which -- how it was.</p> <p>2 Q What year was that, the denial that you</p> <p>3 discussed? Can you remember what year that happened?</p> <p>4 A I believe it would have been 2000.</p> <p>5 Q Do you recall that that meeting occurred</p> <p>6 sometime close to the April 3rd, 2000 meeting?</p> <p>7 A No, I don't recall when it was.</p> <p>8 Q Did that meeting occur prior to your being</p> <p>9 served with the lawsuit filed by Mr. Corneal?</p> <p>10 A No, I don't know when it was.</p> <p>11 Q Let me ask you this: You're aware that</p> <p>12 there's a lawsuit that has been filed in the county court</p> <p>13 against Mr. Corneal by the township supervisors, correct?</p> <p>14 A Yes.</p> <p>15 Q What generated that lawsuit to the best of</p> <p>16 your recollection?</p> <p>17 A I guess no building permits, I believe.</p> <p>18 Q And no building permits, by that you mean</p> <p>19 what?</p> <p>20 A He has none, Mr. Corneal.</p> <p>21 Q Who brought up that the board of supervisors</p> <p>22 should file a lawsuit against Mr. Corneal? Who suggested</p> <p>23 that the board should file a lawsuit against Mr. Corneal?</p> <p>24 A I'm not sure who it was.</p> <p>25 Q Was there a particular meeting at which the</p> | <p style="text-align: right;">36</p> <p>1 Q Did Ann Wirth have shorts on?</p> <p>2 A I don't have no idea.</p> <p>3 Q Was Mr. Newton conferenced in?</p> <p>4 A I don't recall which it was. I really don't.</p> <p>5 Q Was he on a speaker phone or did Ann Wirth</p> <p>6 have a handset in her hand?</p> <p>7 A She has a speaker phone, if it was that.</p> <p>8 Q Was there a meeting of the board of</p> <p>9 supervisors at which a resolution authorizing Solicitor</p> <p>10 Newton to file the lawsuit was discussed? Let me rephrase</p> <p>11 that question. Did the board ever enact a resolution</p> <p>12 authorizing the filing of the lawsuit against Mr. Corneal?</p> <p>13 A At a public meeting?</p> <p>14 Q Yes.</p> <p>15 A No, I would say not.</p> <p>16 Q At an informal meeting?</p> <p>17 A I would say no.</p> <p>18 Q At any private get-together?</p> <p>19 A I don't really recall.</p> <p>20 Q Did you suggest that the board file the</p> <p>21 lawsuit?</p> <p>22 A No.</p> <p>23 Q Did Mr. Wilson suggest that the board file the</p> <p>24 lawsuit?</p> <p>25 A I don't recall who it was.</p> |
| <p style="text-align: right;">35</p> <p>1 discussions took place?</p> <p>2 A I don't know if there was a particular</p> <p>3 meeting, no.</p> <p>4 Q Were there a series of meetings at which it</p> <p>5 was discussed?</p> <p>6 A I would say no.</p> <p>7 Q There was just one meeting?</p> <p>8 A There may have been, yes.</p> <p>9 Q But there may have been more than one meeting?</p> <p>10 A There may have been more than one.</p> <p>11 Q Were all of the supervisors present?</p> <p>12 A I would say yes.</p> <p>13 Q Would Ann Wirth have been present?</p> <p>14 A I would say yes.</p> <p>15 Q Was your solicitor Larry Newton present?</p> <p>16 A He may have been or it may have been a phone</p> <p>17 conference. I don't know.</p> <p>18 Q Did you call him?</p> <p>19 A No.</p> <p>20 Q Do you recall if Ann Wirth called him?</p> <p>21 A She may have. It was in her office.</p> <p>22 Q So this meeting took place in Ann's office?</p> <p>23 A I would say yes.</p> <p>24 Q Do you recall when that meeting took place?</p> <p>25 A No.</p> | <p style="text-align: right;">37</p> <p>1 Q Would Mr. Weiler have suggested that the board</p> <p>2 file a lawsuit?</p> <p>3 A I don't know. I don't recall.</p> <p>4 Q Was there more than one meeting in Ann Wirth's</p> <p>5 office regarding the lawsuit? Was there more than one</p> <p>6 meeting of the board in Ann Wirth's office regarding filing</p> <p>7 a lawsuit against Mr. Corneal?</p> <p>8 A I don't recall if there was or not.</p> <p>9 Q Would you have been present?</p> <p>10 A Yes, I probably would have been, yes.</p> <p>11 Q Do you have any knowledge of Mr. Corneal's</p> <p>12 attempts to get a building permit application from Mr. Van</p> <p>13 Dommelen?</p> <p>14 A Do I have knowledge of it happening?</p> <p>15 Q Yes.</p> <p>16 A Yes, I have knowledge of it happening.</p> <p>17 Q Tell me what you know about that.</p> <p>18 A All I know is it was denied.</p> <p>19 Q Were you aware that Mr. Corneal went to Mr.</p> <p>20 Van Dommelen to tell him?</p> <p>21 A Yes. Not at the time but --</p> <p>22 Q Subsequent?</p> <p>23 A Yes.</p> <p>24 Q How did you find out subsequently?</p> <p>25 A I believe it was at a meeting.</p> |

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1 Q And who told you about it?
2 A I'm not sure if it was Mr. Van Dommelen or
3 Tom. I'm not sure.
4 Q Tom?
5 A Wilson, sorry.
6 Q Do you have any recollection as to when it was
7 Mr. Corneal tried to get the application?
8 A No, I don't recall that.
9 Q Do you remember at what meeting Mr. Wilson or
10 Mr. Van Dommelen discussed Mr. Corneal's attempts to get a
11 building permit application?
12 A No, I don't recall.
13 Q Does Mr. Van Dommelen normally attend board
14 meetings?
15 A Public meetings or --
16 Q The board of supervisor's meetings.
17 A Occasionally he does.
18 Q How often would you say in a year, how many
19 meetings would he be at or be present at?
20 A Maybe four.
21 Q Are you sure that he was present at the
22 meeting at which you were informed of Mr. Corneal's attempts
23 to get a building permit application?
24 A I really don't recall that.
25 Q Was it discussed at a board meeting, a regular

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1 monthly board meeting?
2 A I don't recall -- you mean at --
3 Q Your regular monthly supervisor's meeting.
4 A I don't recall if we talked about it or not.
5 Q Do you recall that the conversation happened
6 privately?
7 A I would say it happened at a workshop, yes.
8 Q What kind of a workshop?
9 A It's just an informal workshop prior to the
10 monthly meeting.
11 Q Do you have those every month?
12 A Yes.
13 Q What do you do at those workshop meetings?
14 A Just set up our agenda for the meeting.
15 Q And who sets up the agenda?
16 A We all do in a way. People call in.
17 Q People call in?
18 A For requests to be -- to be heard at the
19 meetings.
20 Q What date were you elected, I guess, as
21 chairman of the board of supervisors?
22 A The first Monday of January.
23 Q Would that have been January 4th -- no, I'm
24 sorry, that would have been --
25 A I'm not sure of the day, no. It would be this

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1 year, the first Monday -- no, it may have been this --
2 Q January 2001?
3 A I think it was the day after. We have it the
4 day after the beginning of the year, I think.
5 Q So there's a reorganization meeting --
6 A That's correct.
7 Q -- of the board that occurs first?
8 A That's correct.
9 Q And that's followed by a regular meeting?
10 A That's correct.
11 Q As the chairman of the board of supervisors,
12 do you set up the agenda?
13 A No.
14 Q Who does?
15 A I believe our secretary.
16 Q Ann Wirth?
17 A Yeah, yeah.
18 Q Where do you hold your workshop meetings?
19 A At Ann's office where the township rents it, I
20 guess.
21 Q Is her office close to where the meetings of
22 the board of supervisors are held?
23 A Probably three to four miles.
24 Q Do you meet at Ann's office before every
25 single meeting?

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1 A Yes.
2 Q How long do those meetings, those workshop
3 meetings normally last?
4 A Usually an hour to an hour and a half.
5 Q And your meetings normally last how long?
6 A An hour.
7 Q I'm sorry, the meeting of the board itself.
8 A The monthly meeting --
9 Q Yes.
10 A -- community meeting? I would say an hour on
11 average.
12 Q And I'm sorry, you may have told me this
13 already, but that meeting in Ann's office occurs prior to
14 every board meeting, every monthly board meeting?
15 A Yes, they call it a workshop.
16 Q Let me change subjects. Mr. Yoder, did you
17 bring any documents with you today to this deposition?
18 A No.
19 Q Were you instructed to bring any documents
20 with you today?
21 A No.
22 Q Were you instructed not to bring any documents
23 with you today?
24 A I really don't recall if I was. I couldn't
25 tell you.

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|---|--|
| <p style="text-align: right;">42</p> <p>1 Q So you recall -- you know that you --</p> <p>2 A I don't believe -- I believe I was instructed</p> <p>3 not to bring documents, yes.</p> <p>4 Q Who would have instructed you not to bring</p> <p>5 documents with you? Did Ann Wirth ask you not to bring</p> <p>6 documents with you today? Remember you're under oath, Mr.</p> <p>7 Yoder.</p> <p>8 A I think Mr. Sherr told me that.</p> <p>9 Q Prior to your attendance at today's deposition</p> <p>10 did you perform a search of any records that you might have</p> <p>11 regarding Mr. Corneal's property or involvement of the</p> <p>12 township in this lawsuit?</p> <p>13 A Did I put a search in?</p> <p>14 Q Did you perform a search of any --</p> <p>15 A No.</p> <p>16 Q -- records? Do you keep any records of the</p> <p>17 township at all?</p> <p>18 A Very few.</p> <p>19 Q What kind of records do you keep?</p> <p>20 A Just the monthly minutes and that type of</p> <p>21 thing.</p> <p>22 Q Do you hold on to any subdivision</p> <p>23 applications?</p> <p>24 A No.</p> <p>25 Q Sewer planning modules?</p> | <p style="text-align: right;">44</p> <p>1 A I believe maybe Tom has occasionally, yes.</p> <p>2 Q Would you know if Mr. Wilson would give the</p> <p>3 notes to Miss Wirth to hold on to?</p> <p>4 A No, I wouldn't know that.</p> <p>5 Q You wouldn't know then if he would keep them</p> <p>6 in a file himself?</p> <p>7 A No, I wouldn't know that.</p> <p>8 MS. MONTGOMERY: Off the record for a second,</p> <p>9 please.</p> <p>10 (Discussion held off the record.)</p> <p>11 BY MS. MALADY:</p> <p>12 Q You're still under oath. Are you aware of Mr.</p> <p>13 Wilson's family interest in Mr. Corneal's property?</p> <p>14 A No, I'm not aware of that.</p> <p>15 Q You're not aware that his grandfather used to</p> <p>16 own that same property?</p> <p>17 A He told me recently.</p> <p>18 Q So you know that there's an interest -- or not</p> <p>19 that there's an interest --</p> <p>20 A Not an interest, no. I just know that his</p> <p>21 grandparents owned it, I guess, that's all I know.</p> <p>22 Q Did Mr. Wilson ever express to you an interest</p> <p>23 in acquiring that property?</p> <p>24 A No.</p> <p>25 Q Did he ever talk to you about Mr. Corneal's</p> |
| <p style="text-align: right;">43</p> <p>1 A No.</p> <p>2 Q Building permit applications?</p> <p>3 A No.</p> <p>4 Q Any other documents at all that are township</p> <p>5 related?</p> <p>6 A No, I don't believe, no.</p> <p>7 Q Were you instructed to perform a search of</p> <p>8 those documents that you do have to see if anything was</p> <p>9 relevant to this lawsuit?</p> <p>10 A No.</p> <p>11 Q Do you know if any of the members of the board</p> <p>12 of supervisors take notes at those workshop meetings that</p> <p>13 you have in Miss Wirth's office?</p> <p>14 A Do I know if anyone does?</p> <p>15 Q Yes.</p> <p>16 A I don't know that.</p> <p>17 Q Would Miss Wirth keep notes of those meetings,</p> <p>18 something like the minutes that she keeps for your monthly</p> <p>19 meetings?</p> <p>20 A No, I don't believe she does.</p> <p>21 Q Would Mr. Wilson or Mr. Weiler take notes down</p> <p>22 for those workshop meetings?</p> <p>23 A I don't know.</p> <p>24 Q Have you ever noticed anyone taking notes at</p> <p>25 any of those meetings?</p> | <p style="text-align: right;">45</p> <p>1 property?</p> <p>2 A No.</p> <p>3 Q Let me ask you this: When he informed you</p> <p>4 that his grandfather used to own that property, how did that</p> <p>5 come up and what was the conversation?</p> <p>6 A I don't really recall how it was brought up.</p> <p>7 Q But this was recent?</p> <p>8 A Yes, I would say it's fairly recent, yes.</p> <p>9 Q Did it come up as a result of conversations</p> <p>10 regarding the lawsuit?</p> <p>11 A It may have, yes.</p> <p>12 Q Do you recall where you were?</p> <p>13 A No, I don't recall that.</p> <p>14 Q Do you recall how long ago it was?</p> <p>15 A No.</p> <p>16 Q Let me get back to the workshop meetings at</p> <p>17 Miss Wirth's office. Do you recall if the discussions</p> <p>18 regarding Mr. Corneal's request for a building permit</p> <p>19 application occurred at the workshop meeting?</p> <p>20 A Yes, I would say they occurred at a workshop</p> <p>21 meeting.</p> <p>22 Q Do you know what month that meeting would have</p> <p>23 taken place?</p> <p>24 A I have no idea.</p> <p>25 Q Do you recall approximately how long the</p> |

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1 conversation lasted?
 2 A I would say not long. I don't know.
 3 Q Was Mr. Van Dommelen present in Ann's office?
 4 A I don't know if he was or not.
 5 Q Was Mr. Wilson present in Ann's office?
 6 A I would say yes.
 7 Q Did Mr. Wilson bring up the conversation?
 8 A I don't really recall who it was.
 9 Q Tell me about the conversation.
 10 A I recall Mr. Corneal talking to Mr. Van
 11 Dommelen about it and then he refused apparently.
 12 Q Did Mr. Wilson mention that Mr. Van Dommelen
 13 called him at home?
 14 A Mr. Wilson?
 15 Q Yes.
 16 A I'm sorry, could you repeat that again?
 17 Q Sure. Did Mr. Wilson tell you that when Mr.
 18 Corneal went to Mr. Van Dommelen's home Mr. Van Dommelen
 19 called Mr. Wilson while Mr. Corneal was there?
 20 A Yes, they stated that, yes.
 21 Q Did he tell you why he called -- why Mr. Van
 22 Dommelen called Mr. Wilson?
 23 A I guess he's the only one he could get a hold
 24 of, I guess, at that time.
 25 Q Do you have any knowledge as to why Mr. Van

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1 Dommelen had a reason to call any of the supervisors while
 2 Mr. Corneal was there?
 3 A I don't really recall if there was a reason.
 4 Q Did you ever ask Mr. Van Dommelen why he was
 5 trying to get a hold of you or any of the other supervisors?
 6 A I haven't talked to him about it.
 7 Q When was the last time you talked to Mr. Van
 8 Dommelen?
 9 A I probably said hi to him at a monthly
 10 meeting, that's about all, recently.
 11 Q Would that have been this month's meeting?
 12 A Yes. I think he was there.
 13 Q Now, when you have these workshop meetings --
 14 as I understand, your monthly meeting occurs the first
 15 Monday of every month; is that correct?
 16 A That's correct.
 17 Q When do you hold your workshop meetings?
 18 MR. SHERR: Objection. It's been asked and
 19 answered.
 20 MS. MALADY: It's my understanding that he
 21 testified that the meetings occur prior and I'm just asking
 22 if it's the same day or --
 23 MR. SHERR: He said --
 24 MS. MALADY: -- a different day.
 25 MR. SHERR: All right, okay. You can answer

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1 that.
 2 THE WITNESS: The week prior. It's different
 3 days. There's no set day.
 4 BY MS. MALADY:
 5 Q There's no specific Thursday night you get
 6 together or --
 7 A No.
 8 Q -- Friday night?
 9 A No, whenever it suits schedules.
 10 Q Who schedules that workshop meeting for you?
 11 A Our secretary asks each person when it suits
 12 and that's how it's --
 13 Q Does she call you at home and ask you what
 14 your schedule is like?
 15 A Yes. I would say yes.
 16 Q Would you assume then that she calls Mr.
 17 Weiler and Mr. Wilson as well?
 18 A Yes.
 19 Q I'm not sure if I asked you, Mr. Yoder, and if
 20 I did I apologize, do you have a -- I understand that you're
 21 a township supervisor, but do you have a job outside your
 22 work as a supervisor?
 23 A Yes.
 24 Q What do you do?
 25 A Dairy farmer.

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1 Q Do you have your own farm?
 2 A Yes.
 3 Q Now, you had testified I think that your
 4 family farm is on the property next to yours?
 5 A That's correct.
 6 Q Is that where you're mom and dad live
 7 presently or used to live?
 8 A Used to.
 9 Q Did they have a dairy farm as well?
 10 A Correct.
 11 MS. MALADY: I'm going to -- if you don't
 12 mind, I'm going to take a minute and just kind of run
 13 through -- I don't think I have a lot of questions left for
 14 you.
 15 THE WITNESS: Okay.
 16 (Pause.)
 17 BY MS. MALADY:
 18 Q I know that we've talked about the building
 19 permit application that Mr. Corneal sought. Were you aware
 20 that Mr. Corneal subsequently received an application for a
 21 building permit?
 22 A Yes, I was aware of that.
 23 Q How were you made aware of that?
 24 A I'm not sure if it was at a public meeting or
 25 a workshop. I don't recall.

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1 Q Who did you discuss it with?
 2 A **I imagine the other board members.**
 3 Q Do you recall if Mr. Van Dommelen was present
 4 at the meeting?
 5 A **I would say he probably was, yes.**
 6 Q Were you aware or are you aware of any action
 7 that was taken on that application?
 8 A **I don't really recall the action.**
 9 Q I'm going to show you two documents. The
 10 first is marked Wirth Exhibit 13. It's a letter dated
 11 October 10th from Mr. Van Dommelen, if you could take a
 12 minute to review that. Have you ever seen that letter
 13 before?
 14 A **Yes, I have.**
 15 Q When did you see that letter -- when did you
 16 first see this letter?
 17 A **I don't know when I first seen it, no.**
 18 Q Do you believe that it was reasonably soon
 19 after it was written?
 20 A **Yes, I would say soon after.**
 21 Q Let me ask you this: I notice that the letter
 22 is on township supervisor stationery.
 23 A **Um-hum.**
 24 Q Is it your understanding that Mr. Van Dommelen
 25 sends out letters on supervisor's stationery?

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1 A **I couldn't tell you. I don't know.**
 2 Q Is it your understanding that Mr. Van Dommelen
 3 drafts his own letters?
 4 A **I couldn't tell you. I don't know.**
 5 Q Do you know if Miss Wirth normally types up
 6 letters for Mr. Van Dommelen?
 7 A **I don't know if she does or not.**
 8 Q Is it your understanding that Mr. Van Dommelen
 9 drafted this letter by himself?
 10 A **I couldn't tell you, but I would say yes.**
 11 Q Did Mr. Van Dommelen discuss the content of
 12 this letter with the board prior to sending this letter out?
 13 A **Yes, I believe he did.**
 14 Q And when did he discuss that with the board?
 15 A **I couldn't give you a date. I don't know.**
 16 Q Would it have been at the meeting -- the first
 17 meeting -- I'm sorry, at the board meeting in October of
 18 2000?
 19 A **Apparently, yeah. Yes, I would say.**
 20 Q Would that have occurred -- I'm sorry, you may
 21 have said this. Was it at the workshop meeting?
 22 A **I believe it was the workshop meeting, yes.**
 23 Q And who was present at that meeting?
 24 A **Probably Van Dommelen, Tom Wilson, Ann Wirth,**
 25 **Ralph Weiler and I.**

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1 Q And what did Mr. Van Dommelen tell you about
 2 the substance of this letter?
 3 A **I guess just what it says, that's all. We**
 4 **just read it.**
 5 Q Did anyone else discuss with Mr. Van Dommelen
 6 his denial of Mr. Corneal's building permit application?
 7 A **I really don't recall.**
 8 Q Do you recall if Mr. Wilson had any comments
 9 with regard to Mr. Van Dommelen's proposed denial of the
 10 building --
 11 A **I don't recall what was -- if he had any**
 12 **problems.**
 13 Q I'm going to show you what is marked as Wirth
 14 Exhibit 12. It's a letter dated November 10th from Terry
 15 Williams. Have you ever seen that letter?
 16 A **I don't recall seeing that, no.**
 17 Q I note that the letter is addressed to R.D. 1,
 18 Box 390. I understand that's Miss Wirth's home address; is
 19 that correct?
 20 A **Apparently, yes.**
 21 Q Does Miss Wirth often receive township
 22 business letters at her home or at her office address?
 23 A **At the office, yes, as township secretary.**
 24 Q As a matter of course, does Miss Wirth
 25 normally make copies of documents she receives at home for

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1 the supervisors?
 2 A **No.**
 3 Q Does she bring documents received to the
 4 meetings of the board of supervisors?
 5 A **No, I don't think she does, no.**
 6 Q So is it your testimony that when Miss Wirth
 7 receives documents such as this letter she doesn't provide
 8 them to the board of supervisors?
 9 A **No copy. We see the letter, but we receive no**
 10 **copy.**
 11 Q So she brings the actual letter to the board
 12 of supervisors?
 13 A **That's correct. No copies.**
 14 Q But you don't recall ever having seen this
 15 letter?
 16 A **No. I receive so many letters I don't -- I**
 17 **don't recall.**
 18 Q What do you understand this letter to do --
 19 what do you understand this letter to be?
 20 A **They're appealing Mr. Corneal's -- I mean Mr.**
 21 **Van Dommelen's decision.**
 22 Q Does that request trigger any action of the
 23 board of supervisors to the best of your knowledge?
 24 A **I don't really recall.**
 25 Q Are you aware of any Jackson Township

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1 ordinance or ordinances that impose any requirements upon
2 the board of supervisors upon receipt of a document
3 appealing the decision of the building permit officer?
4 **A Any ordinance? Not really, no.**
5 **Q** Are you aware that your building permit
6 ordinance requires that the board of supervisors hold a
7 hearing within 30 days after the receipt of an appeal from a
8 decision of your building permit officer?
9 **A I'm not aware of that, no.**
10 **Q** If I represent to you that your building
11 permit ordinance contains a requirement that the board of
12 supervisors hold a hearing on an appeal from a denial of a
13 building permit, do you have any knowledge of such a hearing
14 being held for Mr. Corneal?
15 **A No, I do not.**
16 **Q** Were you present at any hearing on the
17 building permit denial for Mr. Corneal?
18 **A No.**
19 **Q** As the chairman of the board of supervisors
20 would you have been in charge of organizing this hearing --
21 a hearing from a denial of a building permit?
22 **A I really don't know.**
23 **Q** Would Ann Wirth have been in charge of
24 scheduling a hearing?
25 **A With our input, yes, I would say she'd be in**

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1 **charge of it.**
2 **Q** Did you ever receive any notes, letters,
3 correspondence, communication, telephone call, anything at
4 all regarding a hearing being held on Mr. Corneal's building
5 permit application denial?
6 **A I really don't recall. I don't know.**
7 **Q** Do you recall attending a hearing on Mr.
8 Corneal's building permit denial?
9 **A No.**
10 **Q** Is it safe to assume it didn't happen, would
11 you say?
12 **A I don't know. I don't really recall, sorry.**
13 **MS. MALADY:** We can go off the record.
14 (Discussion held off the record.)
15 **BY MS. MALADY:**
16 **Q** I do have a couple of questions. I'll try to
17 get through them as quickly as I can. Has Mr. Wilson ever
18 expressed to you a concern regarding wetlands on Mr.
19 Corneal's property?
20 **A I really don't recall if he did.**
21 **Q** You've never had a conversation with Mr.
22 Wilson regarding --
23 **A Not personally.**
24 **Q** -- the presence of wetlands?
25 **A (Witness shook his head negatively.)**

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1 **Q** Do you know of any conversations that have
2 taken place regarding wetlands on Mr. Corneal's property?
3 **A I may have heard discussion about it, but I**
4 **don't specifically know.**
5 **Q** Generally what were the discussions regarding
6 it?
7 **A I guess concern about it. That's all I can**
8 **say.**
9 **Q** Do you recall why there was a concern?
10 **A Not specifically, no.**
11 **Q** Generally?
12 **A No, I don't.**
13 **Q** Do you know who was concerned with -- about
14 the wetlands?
15 **A No, I can't say. I don't know.**
16 **Q** Was Mr. Wilson concerned about the presence of
17 wetlands on Mr. Corneal's property?
18 **A I believe he mentioned it, yes.**
19 **Q** Do you recall the setting in which he
20 mentioned it? Let me be more specific. Would it have been
21 at a workshop meeting?
22 **A If there was discussion, yes, it would be at a**
23 **workshop meeting.**
24 **Q** Was that concern expressed at one workshop
25 meeting or was it expressed at more than one workshop

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1 meeting?
2 **A I don't know. I don't know how many.**
3 **Q** Was it discussed at quite a few workshop
4 meetings, would you say?
5 **A I would say not, no. No, not quite a few.**
6 **Q** More than one?
7 **A Maybe one or two.**
8 **Q** What was his concern specifically?
9 **A I really don't know the specifics of it.**
10 **Q** Did Mr. Wilson ever express a concern that
11 your sewage enforcement officer Barry Parks had
12 inadvertently located on-lot sites in the wetlands on Mr.
13 Corneal's property?
14 **A I don't know anything about it.**
15 **Q** Did Mr. Wilson ever express concern about
16 construction vehicles located on Mr. Corneal's property?
17 **A No, not to me.**
18 **Q** Did Mr. Wilson ever express concern about the
19 cartway located on Mr. Corneal's property? Let me back up.
20 Are you familiar with the physical layout of Mr. Corneal's
21 property?
22 **A No, I'm not, not at all.**
23 **Q** Have you ever been to Mr. Corneal's property?
24 **A I've been on Sawmill Road, but that's all.**
25 **Q** Are you aware that there is a cartway on Mr.

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| <p style="text-align: right;">58</p> <p>1 Corneal's property?</p> <p>2 A I'm not familiar with the cartway, no.</p> <p>3 Q When Mr. Corneal first came before the board</p> <p>4 of supervisors with a subdivision plan, did you have any</p> <p>5 knowledge of how many lots he wanted to break his property</p> <p>6 into?</p> <p>7 A Did I have any knowledge?</p> <p>8 Q Yes.</p> <p>9 A No.</p> <p>10 Q Did you subsequently become aware of how many</p> <p>11 lots he wanted to break his property into?</p> <p>12 A Yeah. I would say yes, I do.</p> <p>13 Q And how many was that?</p> <p>14 A I believe four or five. I can't give you an</p> <p>15 exact number.</p> <p>16 Q Did you become aware at some time later that</p> <p>17 he had changed the number of lots that he wanted to</p> <p>18 subdivide his property into?</p> <p>19 A Did I become aware of it?</p> <p>20 Q Yes.</p> <p>21 A I really couldn't tell you. I don't really</p> <p>22 recall.</p> <p>23 Q Did you find out later that he wanted to</p> <p>24 change the plan that he had originally proposed?</p> <p>25 A I don't really recall that, no.</p> | <p style="text-align: right;">60</p> <p>1 wanted to subdivide his property?</p> <p>2 A I believe we discussed it, yes.</p> <p>3 Q Can you tell me about those discussions?</p> <p>4 A Not -- no, I can't tell you specifically, no,</p> <p>5 but I know we did discuss it.</p> <p>6 Q Do you recall where you discussed it?</p> <p>7 A Probably at a workshop.</p> <p>8 Q Would that workshop have been the workshop in</p> <p>9 May of 2000?</p> <p>10 A I have no idea.</p> <p>11 Q Did you discuss it at more than one workshop?</p> <p>12 A I don't know.</p> <p>13 Q Have you ever gone to Mr. Corneal's building</p> <p>14 site on his property?</p> <p>15 A No.</p> <p>16 Q I know you said you've been on Sawmill --</p> <p>17 A Sawmill Road, yes.</p> <p>18 Q Do you know if any of the other supervisors</p> <p>19 have ever gone to Mr. Corneal's building site?</p> <p>20 A No, I don't know.</p> <p>21 Q Do you know if any of the supervisors have</p> <p>22 ever gone out to inspect Mr. Corneal's property?</p> <p>23 A I really don't know.</p> <p>24 Q Do you know -- well, let me ask you this: Did</p> <p>25 you direct Barry Parks, your sewage enforcement officer, to</p> |
| <p style="text-align: right;">59</p> <p>1 Q Was there a point at which you became aware</p> <p>2 that Mr. Corneal no longer wanted to subdivide his property</p> <p>3 at all?</p> <p>4 A There was a point I became aware of that, yes.</p> <p>5 Q Do you recall when that was?</p> <p>6 A I believe I became aware of that in the</p> <p>7 courthouse.</p> <p>8 Q And you were in the courthouse for what</p> <p>9 reason?</p> <p>10 A A hearing of some kind.</p> <p>11 Q Do you recall what the hearing was regarding?</p> <p>12 A I believe it was regarding building permits, I</p> <p>13 believe at that time, yes.</p> <p>14 Q Were you present at the April 3rd, 2000</p> <p>15 meeting that Mr. Corneal was present at?</p> <p>16 A Yes, um-hum.</p> <p>17 Q Do you recall at that meeting that Mr. Corneal</p> <p>18 told the board that he no longer wanted to subdivide the</p> <p>19 property?</p> <p>20 A I recall that, yes. I believe, yes.</p> <p>21 Q So you were aware at least as of April 3rd</p> <p>22 that he no longer wanted to subdivide his property?</p> <p>23 A I believe I became aware.</p> <p>24 Q Did you ever discuss with the other</p> <p>25 supervisors or Ann Wirth the fact that Mr. Corneal no longer</p> | <p style="text-align: right;">61</p> <p>1 go back to Mr. Corneal's property?</p> <p>2 A Did I direct him?</p> <p>3 Q Yes.</p> <p>4 A No, I didn't direct him.</p> <p>5 Q Do you know if any other member of the board</p> <p>6 of the supervisors asked Mr. Parks to go back out to Mr.</p> <p>7 Corneal's property and reinspect the sites that Mr. Parks</p> <p>8 had already approved in the sewage module?</p> <p>9 A I really don't recall who did.</p> <p>10 Q But you recall that it was done?</p> <p>11 A I believe it was done, yes.</p> <p>12 Q Now, did Ann Wirth ask Mr. Parks to do a</p> <p>13 reinvestigation or does that require a supervisor?</p> <p>14 A I believe it requires a supervisor.</p> <p>15 Q Did Mr. Weiler ask Barry Parks to go out?</p> <p>16 A I'm not sure who it was.</p> <p>17 Q But it was either Mr. Weiler or Mr. Wilson; is</p> <p>18 that correct?</p> <p>19 A I believe.</p> <p>20 Q Do you recall Mr. Parks ever coming back and</p> <p>21 reporting to the board of supervisors the results of his</p> <p>22 investigation?</p> <p>23 A Yes, I believe he did.</p> <p>24 Q And what did he say?</p> <p>25 A The site was not a good site anymore is all I</p> |

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|---|---|
| <p style="text-align: right;">62</p> <p>1 recall.</p> <p>2 Q What site was he referring to to the best of</p> <p>3 your knowledge? What did you believe he was referring to?</p> <p>4 A There was a site between two roads, I</p> <p>5 believe. I'd have to see the map, but there was a site</p> <p>6 between two roads.</p> <p>7 Q Are you aware that Mr. Parks had approved five</p> <p>8 sites on Mr. Corneal's property?</p> <p>9 A Yes, I believe he did.</p> <p>10 Q Is it your understanding that based on Mr.</p> <p>11 Parks' approval of those five sites that Mr. Corneal could</p> <p>12 use any of the other four for any building that he would</p> <p>13 construct on his property?</p> <p>14 A I'm sorry, would you repeat that?</p> <p>15 Q Let me rephrase that, I apologize. You</p> <p>16 testified that you understand that Mr. Parks approved</p> <p>17 five --</p> <p>18 A Okay, yes.</p> <p>19 Q -- sites? Now, you testified that following</p> <p>20 his investigation -- and correct me if I'm wrong, please. I</p> <p>21 don't want to misstate your testimony. Following Mr. Parks'</p> <p>22 investigation, his report to the board was that one of those</p> <p>23 sites was no longer suitable; is that correct?</p> <p>24 A Yes, I recall that.</p> <p>25 Q Did he provide any information regarding the</p> | <p style="text-align: right;">64</p> <p>1 Q During your tenure as a supervisor have they</p> <p>2 ever done that?</p> <p>3 A I don't recall any, no.</p> <p>4 Q If I told you that a third party was required</p> <p>5 to certify Mr. Parks' approval of Mr. Corneal's sites, would</p> <p>6 you be surprised by that?</p> <p>7 A I don't recall if it was done or not to the</p> <p>8 best of my knowledge right now.</p> <p>9 Q Would it be unusual for that to happen?</p> <p>10 A I don't know.</p> <p>11 Q Well, does it happen often?</p> <p>12 A No, not that I recall.</p> <p>13 Q So it would be unusual?</p> <p>14 A Probably, yes.</p> <p>15 Q Are you aware of any other subdivision</p> <p>16 application that has been submitted to Jackson Township</p> <p>17 being denied by the board of supervisors?</p> <p>18 MR. SHERR: Object to the form of the</p> <p>19 question.</p> <p>20 MS. MALADY: Is that awkward?</p> <p>21 MR. SHERR: No, it was a fine question, but I</p> <p>22 don't -- I don't think there is any testimony that this plan</p> <p>23 was denied. You said any other plan denied. You're just</p> <p>24 assuming facts not in evidence.</p> <p>25 MS. MALADY: I'll reask the question.</p> |
| <p style="text-align: right;">63</p> <p>1 other four sites?</p> <p>2 A I really don't recall if he did.</p> <p>3 Q You don't remember that he said any of the</p> <p>4 other four were now unsuitable?</p> <p>5 A No, I don't recall if he said that.</p> <p>6 Q Was he asked about the other four sites?</p> <p>7 A I don't recall. Not by me.</p> <p>8 Q Do you recall if either of the other --</p> <p>9 A No.</p> <p>10 Q -- supervisors asked?</p> <p>11 A No.</p> <p>12 Q Did Mr. Parks submit any comments to the board</p> <p>13 in writing regarding his investigation?</p> <p>14 A I don't recall. I don't believe I read</p> <p>15 anything, no.</p> <p>16 Q Let me ask you this: To the best of your</p> <p>17 knowledge has the board ever requested that a third party</p> <p>18 certify that sites approved by Mr. Parks are correctly</p> <p>19 approved by Mr. Parks?</p> <p>20 That question sounded terrible even to me, I</p> <p>21 apologize. Let me reask. To the best of your knowledge</p> <p>22 when Mr. Parks approves a sewer module application has the</p> <p>23 board ever then required that a third party go back out and</p> <p>24 check what Mr. Parks has done?</p> <p>25 A Before my time I don't recall of any, no.</p> | <p style="text-align: right;">65</p> <p>1 BY MS. MALADY:</p> <p>2 Q Are you aware of any subdivision application</p> <p>3 that has been denied by the board of supervisors of Jackson</p> <p>4 Township?</p> <p>5 A No.</p> <p>6 Q Are you aware that Mr. Corneal's subdivision</p> <p>7 plan has not been approved by the board of supervisors?</p> <p>8 A Yes.</p> <p>9 Q Was it your understanding that Mr. Corneal</p> <p>10 withdrew his revised subdivision plan?</p> <p>11 A I'm sorry, what was --</p> <p>12 Q I think I need to ask that better. Are you</p> <p>13 aware that Mr. Corneal revised the subdivision plan that he</p> <p>14 had submitted in February of 2000 to the county planning</p> <p>15 commission? Are you aware that he revised that plan?</p> <p>16 A Yes, I am.</p> <p>17 Q Have you ever seen a copy of that revised</p> <p>18 plan?</p> <p>19 A Yes, I did once.</p> <p>20 Q When did you see it?</p> <p>21 A I believe it was with the meeting with Terry</p> <p>22 Williams, I believe.</p> <p>23 Q Do you know if that plan was submitted to the</p> <p>24 county planning commission?</p> <p>25 A I don't know.</p> |

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1 Q I don't think that I've shown you this
2 document. It's a document marked Wilson Exhibit 5. It's a
3 letter from the Huntingdon County Planning Commission dated
4 April 20th. Have you ever seen that letter before?
5 A **I don't recall, but I would say I have seen**
6 **it, yes.**
7 Q Do you understand what the content of the
8 letter is?
9 A **Not completely.**
10 Q Do you understand that this is a letter
11 recommending approval of Mr. Corneal's revised subdivision
12 plan?
13 A **Yes.**
14 Q To the best of your knowledge has Mr. Corneal
15 withdrawn from the Jackson Township Board of Supervisor's
16 consideration this revised plan?
17 A **He's withdrawn it?**
18 Q To the best of your knowledge has he?
19 A **Yes, I believe he has, yes.**
20 Q Have you ever seen anything in writing
21 withdrawing that plan from your consideration?
22 A **No, I don't -- I don't recall.**
23 Q Do you recall Mr. Corneal ever requesting that
24 you not consider his revised subdivision plan?
25 A **No.**

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1 Q The date doesn't really matter, but you did
2 start researching it before the moratorium?
3 A **We did research it, yes, correct.**
4 Q During your research of the proposed
5 subdivision ordinance, did you ever have reason to seek the
6 advice of Larry Newton with regard to the proposed
7 ordinance?
8 A **I believe we did, yes.**
9 Q Do you know in what capacity you asked for his
10 advice?
11 A **I don't recall right now. I don't recall**
12 **exactly. He may have -- I believe he said if it was -- it**
13 **was something we could do. It's something we could do,**
14 **we're allowed to do.**
15 Q So you asked him whether or not you were
16 allowed to pass such an ordinance; is that correct?
17 A **I believe we did, yes.**
18 Q Did you ever ask Larry Newton whether or not
19 it was legal for you to impose a moratorium upon building in
20 Jackson Township?
21 A **I don't recall if we did or not.**
22 Q Do you recall if you personally ever asked
23 Larry Newton that question?
24 A **I never did, no.**
25 Q Do you recall if any of the supervisors ever

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1 Q Did you ever take any action on Mr. Corneal's
2 revised subdivision plan, you meaning the board of
3 supervisors?
4 A **I don't recall right now.**
5 Q You don't recall taking any action?
6 A **No.**
7
8 **CROSS-EXAMINATION**
9
10 **BY MS. YANKANICH:**
11 Q Mr. Yoder, I'm Jennifer Yankanich. I'm
12 counsel for Larry Newton. I just wanted to introduce myself
13 to you, if I haven't already. I have a couple questions for
14 you regarding your interaction with Larry Newton with regard
15 to the David Corneal property.
16 Let's start back when you first decided to
17 start researching the subdivision ordinance. I believe that
18 came before you actually issued the moratorium?
19 A **Correct.**
20 Q You said possibly in the summer of '99 -- or
21 excuse me, summer of '98 you may have started researching
22 the possible ordinance; is that correct?
23 A **I believe it was '99. I'm not sure.**
24 Q Well, summer of '99 -- okay.
25 A **Well, whenever.**

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1 asked Larry Newton whether or not it was legal to impose a
2 moratorium on building?
3 A **I don't recall if any others did or not.**
4 Q Do you recall if any of them maybe asked Ann
5 Wirth to call Larry Newton and ask him that question?
6 A **No, I don't recall that.**
7 Q On February 7th I believe you testified you
8 remember David Corneal coming to the Jackson Township Board
9 of Supervisor meeting; is that correct?
10 A **In February?**
11 Q On February 7th, 2000.
12 A **Okay.**
13 Q Is that what -- you remember him coming there?
14 A **I believe, yes.**
15 Q Do you recall that he came with a subdivision
16 plan for your approval, the board's approval?
17 A **Yes.**
18 Q Do you recall if you stopped the meeting to
19 call Larry Newton to seek his advice before the board turned
20 down Mr. Corneal's request?
21 A **No, I don't -- we did not.**
22 Q Do you recall anyone asking Ann Wirth to call
23 Larry Newton --
24 A **No.**
25 Q -- for his advice?

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1 (Discussion held off the record.)
 2 BY MS. YANKANICH:
 3 Q At a subsequent meeting Mr. Corneal came back
 4 to the board of supervisors and asked that sewage modules be
 5 approved; is that correct?
 6 A **You mean a subsequent meeting?**
 7 Q On a subsequent meeting, yes.
 8 A **After the February meeting?**
 9 Q Yes.
 10 A **I recall the privy permit.**
 11 Q Do you recall at the meeting where he
 12 requested a privy permit whether or not you stopped the
 13 meeting and called Larry Newton to seek his advice on how to
 14 proceed?
 15 A **We did not.**
 16 Q Do you recall if anyone asked Ann Wirth to
 17 call Larry Newton and ask his advice?
 18 A **No.**
 19 Q Do you recall at any time whether you -- in
 20 connection with David Corneal's property and how the board
 21 of supervisors should proceed, do you recall at any time you
 22 personally calling Larry Newton and asking his advice on
 23 what to do?
 24 A **Personally, no.**
 25 Q Do you recall any of the other supervisors

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1 calling Larry Newton and asking him how to proceed with
 2 regard to David Corneal's property?
 3 A **I don't recall, no.**
 4 Q Do you recall if anyone asked Ann Wirth to
 5 call Larry Newton and ask him how to proceed with regard to
 6 David Corneal's --
 7 A **I would say at a workshop, yes.**
 8 Q At a workshop?
 9 A **Yes.**
 10 Q Was that before the ordinance was -- is that
 11 during the research of the ordinance?
 12 A **I couldn't tell you when, no. I don't -- I**
 13 **would say yes, that's correct.**
 14 Q So to my question -- you believe one of the
 15 supervisors asked Ann Wirth to call Larry Newton --
 16 A **I would say yes.**
 17 Q Let me finish my question before you answer
 18 the question.
 19 A **I'm sorry.**
 20 Q I'm just doing it for the benefit of the court
 21 reporter. Is it your testimony that one of the supervisors
 22 asked Ann Wirth to call Larry Newton, the solicitor, and ask
 23 him on how the board should proceed with regard to David
 24 Corneal?
 25 A **Yes.**

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1 Q Can you recall what the board asked her to ask
 2 Mr. Newton?
 3 A **No, I don't recall exactly, no. I don't**
 4 **recall.**
 5 Q Do you recall if that instruction that was
 6 given to Ann Wirth to make that telephone call to Mr. Newton
 7 was before the litigation commenced in this lawsuit?
 8 A **I don't recall. I believe it would be before,**
 9 **yes.**
 10 Q Do you have any recollection of what Ann --
 11 what the result of that telephone call was between Ann Wirth
 12 and Larry Newton?
 13 A **It would have been a conference call so I**
 14 **don't recall exactly.**
 15 Q It would have been a conference call between
 16 whom?
 17 A **The supervisors over the phone.**
 18 Q With Larry Newton?
 19 A **With Larry Newton.**
 20 Q Was this the conference call that you
 21 testified to earlier regarding when you should file a
 22 lawsuit against Mr. Corneal?
 23 A **No, I would say, no.**
 24 Q It was before that?
 25 A **I would say before that.**

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1 Q Did Mr. Newton give the board of supervisors
 2 advice during that telephone call?
 3 A **I don't recall the advice, no, if there was**
 4 **advice.**
 5 Q Can you tell me anything about that telephone
 6 call?
 7 A **No.**
 8 Q You don't know what prompted the telephone
 9 call?
 10 A **He's our solicitor. I guess we wanted his**
 11 **input.**
 12 Q And you're sure that it was about David
 13 Corneal's property?
 14 A **I would say it was about the moratorium.**
 15 Q It was about the moratorium?
 16 A **Yes.**
 17 Q When did you first hear of David Corneal?
 18 A **At the first meeting he was in attendance.**
 19 Q So that would be February 7th, 2000?
 20 A **Correct.**
 21 Q That was the first time that you heard about
 22 David Corneal?
 23 A **Yes.**
 24 Q Now, you just stated that the telephone call
 25 you had with Larry Newton was regarding the moratorium?

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1 **A That would have been before that, I believe.**
 2 **Q** So that was before you ever heard about David
 3 Corneal?
 4 **A Correct.**
 5 **Q** So does it refresh your recollection that
 6 perhaps you were asking him whether or not you could have
 7 such a moratorium?
 8 **A I believe that's correct, yes. I would say**
 9 **that would be correct.**
 10 **Q** Then did that have anything to do with David
 11 Corneal's property then at that time?
 12 **A No.**
 13 **Q** Is it customary after the board meetings on
 14 the first Monday of each month to inform Larry Newton about
 15 the actions that were taken by the supervisors at those
 16 meetings?
 17 **A No, that's not customary.**
 18 **Q** Do you recall if at any time after David
 19 Corneal attended a supervisor's board meeting -- excuse me,
 20 Jackson Township Board of Supervisor's meeting whether or
 21 not you called Larry Newton to tell him what happened during
 22 the meeting?
 23 **A I don't know. I do not recall.**
 24 **MS. YANKANICH:** I don't have any further
 25 questions.

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1 **MS. MALADY:** Just a couple questions.
 2
 3 **REDIRECT EXAMINATION**
 4
 5 **BY MS. MALADY:**
 6 **Q** I think that you have been asked whether Ann
 7 Wirth contacted Larry Newton directly on behalf of the board
 8 of supervisors; is that correct?
 9 **MS. MALADY:** Is that -- did I restate your
 10 question?
 11 **MS. YANKANICH:** Not exactly. I'd rather we
 12 read back if you're going to ask him about a specific
 13 question.
 14 **MS. MALADY:** No, that's okay.
 15 **BY MS. MALADY:**
 16 **Q** In the ordinary course does Ann Wirth call
 17 Larry Newton on behalf of the board of supervisors without
 18 your instruction?
 19 **A No, she does not.**
 20 **Q** Does Ann Wirth need to get your permission to
 21 call your solicitor?
 22 **A I really couldn't tell you. I don't know if**
 23 **she needs our permission completely or not.**
 24 **Q** Is it your belief that she should get the
 25 permission of the board of supervisors prior to calling your

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1 solicitor?
 2 **A Yes, I would say that, yes.**
 3 **Q** Are you aware that your solicitor may take the
 4 position that actions taken by the board of supervisors were
 5 taken without consultation with him?
 6 **A Am I aware of that?**
 7 **Q** Yes.
 8 **A I'm really not aware of that, no.**
 9 **Q** Are you aware that your solicitor may take the
 10 position that actions taken by the board were not lawful?
 11 **A No.**
 12 **Q** Are you aware that your solicitor may take the
 13 position that the board of supervisors did not rely upon his
 14 advice in taking any actions which are the basis of this
 15 lawsuit?
 16 **A Could you start at the beginning of that, I'm**
 17 **sorry.**
 18 **Q** Sure. Are you aware that your solicitor may
 19 take the position that the board of supervisors did not rely
 20 upon any advice that he provided in taking any of the
 21 actions which form the subject of this lawsuit?
 22 **A No, I'm not aware of that.**
 23 **Q** Very briefly. Do you know of any other
 24 subdivision application submissions to the township during
 25 the period of the moratorium? Do you know if any other

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1 subdivision applications were provided to the board of
 2 supervisors?
 3 **A No, I'm not aware of any, no.**
 4 **Q** Are you aware -- I'm sorry, I don't mean to
 5 ask every question starting the same way. Does the board
 6 keep an ordinance book to the best of your knowledge?
 7 **A An ordinance book?**
 8 **Q** Yes.
 9 **A Yes.**
 10 **Q** Do you know where that's kept?
 11 **A I believe a copy -- the main copy is at the**
 12 **township office.**
 13 **Q** Following the passage of an ordinance by the
 14 board of supervisors, what happens to the physical ordinance
 15 that's been enacted? Is it filed, is it --
 16 **A I would say it's filed at the office, yes.**
 17 **Q** So you believe it would be placed in a file in
 18 Ann Wirth's office?
 19 **A Yes, correct.**
 20 **Q** Do you have any knowledge or what do you
 21 believe that an ordinance book is?
 22 **A It's something you follow to -- for building**
 23 **and that type of thing in the township.**
 24 **Q** So to the best of your knowledge the
 25 ordinances that you pass are kept in files in Ann's office?

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1 A Yes.
2 Q In Miss Wirth's office?
3 A Yes.
4 Q Let me ask you: To the best of your knowledge
5 are they filed according to subject matter or are they filed
6 separately or are they -- how are they kept, do you have any
7 idea?
8 A I have no idea.
9 Q Did you ever talk to your solicitor -- you
10 personally or the board or Ann Wirth, did you ever talk to
11 your solicitor about the likelihood that Mr. Corneal's
12 subdivision would not be approved?
13 A I really don't recall.
14 Q You weren't present at any conversation at
15 which that topic was discussed?
16 A I may have been. I don't recall.
17 Q You don't recall the conversation or you don't
18 recall being present at --
19 A I don't recall the conversation.
20 Q Do you have any knowledge of Mr. Wilson's
21 telephone conversation with Barry Parks regarding Mr.
22 Corneal's request for sewer module approval --
23 A No.
24 Q -- generally?
25 A No.

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1 Q Do you have any knowledge of Mr. Wilson
2 directing Mr. Parks to do his job? Are you aware that Mr.
3 Wilson told Mr. Parks to do his job with regard to Mr.
4 Corneal's sewage module application?
5 A No, I'm not aware.
6 Q Are you aware that he was informed -- that Mr.
7 Wilson informed Mr. Parks to do his job with regard to a
8 privy permit request by Mr. Corneal?
9 A No, I'm not aware of that.
10 Q Were you present at a meeting regarding Mr.
11 Corneal's property involving Mr. Van Dommelen's failure to
12 provide a permit -- a building permit application to Mr.
13 Corneal?
14 A Was I at a meeting?
15 Q Yes.
16 A Where it was discussed you mean?
17 Q Yes.
18 A Yes, I was there.
19 Q And can you tell me about that meeting?
20 A No, I can't tell you specifics, no.
21 Q You don't recall what was discussed at that
22 meeting?
23 A No. The letter may have been discussed.
24 Q The letter being Mr. Van Dommelen's denial --
25 A I believe, yes.

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1 Q -- of Mr. Corneal's permit. Were you aware
2 before this deposition that Mr. Van Dommelen refused to give
3 Mr. Corneal a building permit application?
4 A Yes, I believe it was discussed.
5 Q Did you ever have a discussion with Mr. Van
6 Dommelen regarding the appropriateness of his failure to
7 provide a building permit application to Mr. Corneal?
8 A I believe we discussed that he should provide
9 him with a permit.
10 Q Can you tell me about that conversation?
11 A That's basically what was said, that we
12 should, I guess. That's all I can recall.
13 Q Would that have -- would that conversation
14 have occurred at the same meeting at which --
15 A I would say yes.
16 Q -- his denial --
17 MS. MALADY: I don't have any other questions,
18 but there are a couple things I wanted to get on the record
19 before we stop the deposition.
20 MS. YANKANICH: I have another question.
21
22 RECROSS-EXAMINATION
23
24 BY MS. YANKANICH:
25 Q With regard to township business, do you

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1 regularly seek the advice of Larry Newton with regard to any
2 potential business?
3 A Not all township business, no.
4 Q If the supervisors wanted the advice of Larry
5 Newton, how would they typically get in contact with him?
6 Would they -- I guess what I'm asking is would you contact
7 him directly or would you go through Ann Wirth?
8 A We would go through Ann Wirth at the office.
9 Q And if Larry Newton does work on behalf of the
10 supervisors does he bill for that time?
11 A I don't know.
12 Q You're not aware of how Larry Newton gets paid
13 by the township --
14 A No, I'm really not.
15 Q -- for his services? Do you recall ever
16 approving any work that he's done on behalf of the
17 supervisors?
18 A No.
19 Q Do you recall seeing any bills that he
20 submitted to the board for approval?
21 A I sign the check, I believe, and that's it.
22 Q But you don't know what that was for?
23 A No, not specifically, no.
24 MS. YANKANICH: That's all the questions I
25 have. Thank you.

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1 MS. MALADY: As you may be aware, Mr. Yoder,
 2 we will be traveling -- I'm sorry, we being counsel for Mr.
 3 and Mrs. Corneal, and I'm not sure if the other counsel will
 4 be present. We'll be in Huntingdon County to depose Mr.
 5 Weiler at some point in the near future. Evidently we're
 6 coming up next week to inspect documents and we would
 7 request that you have documents ready for our review made
 8 available through your counsel --

9 MR. SHERR: Hold it. You do this through me.
 10 I don't know that --

11 MS. MONTGOMERY: We're going to place it on
 12 the record.

13 MR. SHERR: You can place whatever you want on
 14 the record, but you'll make the arrangements through me
 15 because --

16 MS. MONTGOMERY: Well, we'll place it on the
 17 record.

18 MS. MALADY: Subject to Mr. Sherr's objection,
 19 we would like to get the following documents. If you would
 20 arrange for Miss Wirth to give those documents to Mr. Sherr
 21 for our inspection --

22 MR. SHERR: Well, you know, he can't even talk
 23 to Miss Wirth about it, you know, pursuant to the order. So
 24 why don't we do this through me.

25 MS. MONTGOMERY: That's absolutely not true.

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1 the invoices that Larry Newton has sent to the township for
 2 work -- legal work done in connection with Jackson Township
 3 over the last two years. We would like minutes from the
 4 workshops of the meetings of the supervisors, the workshop
 5 meetings of the supervisors. We would like any bills that
 6 Ann Wirth has for copies made of the ordinances at any
 7 time.

8 We also would like bills related to any
 9 advertisements of the ordinances and any newspaper files
 10 that she has related to advertisements of the ordinances,
 11 any advertisements. We would like the list of attendees to
 12 the township meetings that she started to keep in January of
 13 2001.

14 We would like to look at the originals of the
 15 subdivision files and any and all other documents that are
 16 in any way related to the subdivision ordinance, the
 17 moratorium, the highway ordinance -- I'm sorry, the driveway
 18 ordinance and anything at all to do with the Corneal
 19 property.

20 Now the deposition is concluded despite the
 21 fact that Mr. Sherr has taken his client and left the room.
 22 (The deposition was concluded at 4:56 p.m.)
 23
 24
 25

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1 MR. SHERR: It is. If it's not a deposition,
 2 then he's leaving. So you can -- why don't you just do it
 3 through me. Why don't you -- tell me what documents you
 4 want and we'll have them.

5 MS. MONTGOMERY: I'm doing it through you
 6 right now. You're here so you should listen.

7 MR. SHERR: We don't have to do it on the
 8 record.

9 MS. MONTGOMERY: We are doing it on the
 10 record.

11 MR. SHERR: You can do it on the record.
 12 Let's go. I'm done. The deposition is over.

13 MS. MONTGOMERY: You're going to leave the
 14 deposition while we place on the record the documents that
 15 we would like you to have ready for us to inspect next week.

16 MR. SHERR: I'd appreciate you doing that in
 17 correspondence.

18 MS. MONTGOMERY: You are leaving the
 19 deposition despite the fact that we are going to place on
 20 the record --

21 MR. SHERR: You said the deposition is over.

22 MS. MONTGOMERY: -- what you would like --
 23 okay, would you please continue -- he's left the deposition
 24 before it's over.

25 We would like to inspect in Huntingdon County

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1
 2 COUNTY OF DAUPHIN :
 : SS
 3 COMMONWEALTH OF PENNSYLVANIA :
 4 I, Teresa K. Bear, Reporter-Notary Public,
 5 authorized to administer oaths within and for the
 6 Commonwealth of Pennsylvania and take depositions in the
 7 trial of causes, do hereby certify that the foregoing is the
 8 testimony of MICHAEL YODER.

9 I further certify that before the taking of
 10 said deposition, the witness was duly sworn; that the
 11 questions and answers were taken down stenographically by
 12 the said Teresa K. Bear, a Reporter-Notary Public, approved
 13 and agreed to, and afterwards reduced to typewriting under
 14 the direction of the said Reporter.

15 I further certify that the proceedings and
 16 evidence are contained fully and accurately to the best of
 17 my ability in the notes taken by me on the within
 18 deposition, and that this copy is a correct transcript of
 19 the same.

20 In testimony whereof, I have hereunto
 21 subscribed my hand this 4th day of June, 2001.
 22
 23

24 _____
 Teresa K. Bear, Reporter
 Notary Public
 My commission expires
 on April 13, 2003
 25

Exhibit 3

IN THE UNITED STATES COURT
FOR THE MIDDLE DISTRICT
OF PENNSYLVANIA

* * * * *

DAVID B. CORNEAL, and*

SANDRA Y. CORNEAL, * Case No.

Plaintiffs * 1 CV-00-1192

vs. *

JACKSON TOWNSHIP, *

et al, *

Defendant *

* * * * *

COPY

DEPOSITION OF
RALPH WEILER
JUNE 29, 2001

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DEPOSITION

OF

RALPH WEILER, taken on behalf of the
Plaintiff herein, pursuant to the
Rules of Civil Procedure, taken
before me, the undersigned, Jane E.
Messner, a Court Reporter and Notary
Public in and for the Commonwealth of
Pennsylvania, The Stoneycreek
Volunteer Fire Department, Route 26,
McAlevey's Fort, Petersburg,
Pennsylvania, on Friday, June 29,
2001, beginning at 10:25 a.m.

1 A P P E A R A N C E S
2 LESLIE MALADY, ESQUIRE
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I N D E X

WITNESS: RALPH WEILER

EXAMINATION

by Attorney Montgomery

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CERTIFICATE

47

EXHIBIT PAGE

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| <u>NUMBER</u> | <u>DESCRIPTION</u> | <u>IDENTIFIED</u> | |
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* NOT ATTACHED

OBJECTION PAGE

ATTORNEY

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P R O C E E D I N G S

RALPH WEILER, HAVING FIRST BEEN DULY
SWORN, TESTIFIED AS FOLLOWS:

DIRECT EXAMINATION

BY ATTORNEY MALADY:

Q. Mr. Weiler, would you state
your name for the record, please?

A. Ralph Weiler.

Q. My name is Leslie Malady. I'm
an attorney with Eckert Seamans. We
represent Mr. and Mrs. Corneal. I'm
going to take your deposition. Have
you ever been deposed, Mr. Weiler?

A. I don't believe.

Q. Have you ever been a party to
a lawsuit before?

A. No.

Q. Let me run through, very
quickly, just the format of this
deposition. I'm going to ask you a
series of questions. I need you to
answer me verbally. I can't have you
nod your head or shake your head no.

1 For the court reporter, it needs to
2 be verbal. Are you on any
3 medications today that would prevent
4 you giving a deposition?

5 A. No.

6 Q. Mr. Weiler, do you drive?

7 A. Yes.

8 Q. Did you drive here this
9 morning?

10 A. Yes.

11 Q. Did you drive here by
12 yourself?

13 A. Yes.

14 Q. I'm going to show you a
15 document which we'll mark Weiler
16 Exhibit One. Have you seen that
17 document before?

18 (Deposition Exhibit
19 Number One marked for
20 identification.)

21 A. I can't say that I have.

22 Q. Were you aware that the court
23 had entered a sequestration order in
24 this case?

25 A. What's a sequestration?

1 Q. The court entered this order
2 which says that the Defendants, you
3 and the other supervisors, Anne
4 Worth, Barry Parks, Mr. Vandommel and
5 Mr. Newton are not to talk about your
6 deposition testimony with one another
7 until all of the depositions have
8 been taken. Were you aware of that?

9 A. Yes. I'd heard that they
10 weren't supposed to speak of it.

11 Q. And where did you hear that?

12 A. Well, I don't know. I think
13 when they came back I asked them how
14 it went, and they said we can't talk
15 about it.

16 Q. And when was that?

17 A. Two weeks, three weeks. I
18 don't know whenever they were away.

19 Q. And they is who?

20 A. I would say Anne, mainly. Tom
21 might have mentioned it too.

22 Q. And Tom is?

23 A. Wilson.

24 Q. And I'm sorry, Anne?

25 A. Worth.

1 Q. Anyone else?

2 A. No, I don't think. When we
3 went to talk about it they just
4 hushed up. That was all.

5 Q. So you haven't talked to any
6 of the supervisors, any of the other
7 Defendants about any of their
8 deposition testimony?

9 A. No.

10 Q. Have you had an opportunity to
11 talk to any of them following their
12 depositions?

13 A. Oh, yes. We have done work
14 and stuff.

15 Q. What kind of work have you
16 done?

17 A. We have been together out at
18 Anne's for administrative work. And
19 I was up there checking the truck. I
20 guess nobody was up there with me at
21 this township building the one day.
22 No, that would be all.

23 Q. Have you had any other
24 opportunity to talk to any of the
25 other Defendants?

1 A. No.

2 Q. Have you been alone with any
3 of the other Defendants?

4 A. No.

5 Q. While you were waiting this
6 morning for the deposition, did you
7 have the opportunity to speak to any
8 of the other Defendants?

9 A. Well, first Anne was here, but
10 she never mentioned nothing about it.

11 Q. And why was Anne here?

12 A. She was here to see that this
13 thing was set up?

14 Q. What was set up?

15 A. The tables and stuff. See,
16 sometimes these are all out away in a
17 corner, chairs are put up.

18 Q. How long did she wait with you
19 this morning?

20 A. I suppose a half hour maybe.

21 Q. Was she setting up tables the
22 whole time you were waiting?

23 A. She had come in and checked on
24 it, and this is about the way she
25 found it.

1 Q. And then what did she do?

2 A. Well, she would just wait out
3 there.

4 Q. Where?

5 A. Outside.

6 Q. Anywhere in particular
7 outside?

8 A. Outside the door. Didn't you
9 see her there this morning?

10 Q. Yes. And where were you
11 waiting this morning?

12 A. Well, I stood there a while
13 and then we sat down in the car.

14 Q. Whose car?

15 A. Anne's.

16 Q. Did you read anything while
17 you were waiting this morning?

18 A. No.

19 Q. You didn't have any documents
20 that you were going through?

21 A. No.

22 Q. Where do you live, Mr. Weiler?

23 A. A mile east of here.

24 Q. And what is your address?

25 A. R.D. 1 Box 651, Petersburg, PA

1 16669.

2 Q. Is Petersburg --- is that in
3 Jackson Township?

4 A. No.

5 Q. I'm sorry. You're a Jackson
6 Township supervisor?

7 A. Yes.

8 Q. How is it that you're a
9 Jackson Township supervisor if you
10 don't live in Jackson Township?

11 A. I live in Jackson Township
12 You asked me if Petersburg was in
13 Jackson Township, and it's not.

14 Q. So how is that your mailing
15 address is Petersburg?

16 A. This is Petersburg. You go on
17 the other side of that bridge there
18 and it's Huntingdon.

19 Q. The Huntingdon proper or
20 Huntingdon County?

21 A. Huntingdon, R.D. 1.

22 Q. So you physically live in
23 Jackson Township?

24 A. Right.

25 Q. Can you tell me your

1 educational history? What's the
2 highest grade you've completed?

3 A. Twelfth.

4 Q. Did you go to any college?

5 A. I had a couple short courses.

6 Q. What kind of courses did you
7 take?

8 A. Mainly farming.

9 Q. Did you receive an Associate's
10 Degree or just ---.

11 A. No. It wasn't that long. It
12 was only --- each one of them was
13 probably three months.

14 Q. How long have you lived in
15 Jackson Township?

16 A. Seventy-one (71) years.

17 Q. All of your life?

18 A. Uh-huh (yes).

19 Q. Do you do any other work other
20 than working as a supervisor?

21 A. Not now, no.

22 Q. What did you used to do?

23 A. Farm.

24 Q. Do you own your own farm?

25 A. Yes.

1 Q. Did you parents have a farm?
2 A. Yes, they did.
3 Q. And they lived in Jackson
4 Township?
5 A. Oh, no.
6 Q. I'm sorry, how long have you
7 been a supervisor for Jackson
8 Township?
9 A. Probably close to 20 years,
10 something around there.
11 Q. Have you ever been the
12 Chairman of the Board?
13 A. Yeah, I've been Chairman.
14 Q. Do you know how many times?
15 A. I think it was only one time.
16 Q. Are you presently the
17 chairman?
18 A. No.
19 Q. When were you the chairman?
20 A. Back four or five years ago
21 probably.
22 Q. Mr. Weiler, are you aware of
23 the procedures that your Board uses
24 when it enacts an ordinance?
25 A. Yes, pretty much.

1 Q. Can you describe those
2 procedures for me?

3 A. Well, I'd have to see papers
4 and stuff, then I'll know.

5 Q. Like what kind of papers?

6 A. When they enact a what?

7 Q. An ordinance.

8 A. Well, we have a meeting here
9 at our --- at the fire hall, a
10 meeting, yeah, and we just do it at
11 that.

12 Q. Do you know if that meeting is
13 preceded by any advertisements?

14 A. Yes.

15 Q. Do you know if the
16 advertisements specify that you're
17 going to consider an ordinance?

18 A. Yeah.

19 Q. They do?

20 A. Uh-huh (yes). Yeah, I think
21 they do.

22 Q. Do you vote on ordinances at
23 the meetings?

24 A. Yeah. Uh-huh (yes).

25 Q. Do the minutes from your

1 minutes reflect the vote that you've
2 taken?

3 A. Yes.

4 Q. Is that how a record of the
5 vote is kept?

6 A. Yeah.

7 Q. When you have a proposed
8 ordinance that the Board is
9 considering, do you make it publicly
10 available?

11 A. Oh, yeah.

12 Q. Where is it publicly
13 available?

14 A. Well, of course the
15 secretary's got it, and I think
16 ordinances are posted I think on the
17 building here, I believe. But I
18 won't say for sure about the
19 building, but I think they are.

20 Q. Do you if know copies are
21 available at the meetings when
22 they're voted on?

23 A. Yeah. There could be copies
24 there, yeah.

25 Q. Are there normally copies

1 available?

2 A. I think generally. It's in
3 the paper.

4 Q. Have you ever enacted an
5 ordinance that wasn't in the paper?

6 A. No, I don't think.

7 Q. Have you ever enacted any
8 resolutions? Let me ask you this,
9 has the Board of Supervisors ever
10 enacted a resolution?

11 A. I don't know.

12 Q. Would you say to the best of
13 your knowledge that they haven't?

14 A. I don't know about that.

15 Q. Do you know if a resolution
16 would be advertised in the paper?

17 A. I would think so.

18 Q. This sounds like a similar
19 question, but I'm going to ask you
20 just a little differently. Are you
21 aware of any resolutions being passed
22 by the Board of Supervisors that
23 weren't in the paper?

24 A. No. I feel sure if any of
25 them were passed, they'd been

1 advertised.

2 Q. Do you know if the Board would
3 vote on a resolution?

4 A. Yeah.

5 Q. Would that vote occur at a
6 meeting?

7 A. Yeah.

8 Q. Would that be the regular
9 meeting held here?

10 A. Yeah. This is the only place
11 we have meetings.

12 Q. Have you ever attended
13 workshop meetings?

14 A. Yes.

15 Q. And where are the workshop
16 meetings held?

17 A. Well, the County does
18 workshops. Huntingdon County outside
19 does stuff like that.

20 Q. Does the township have any
21 workshop meetings?

22 A. In what way are you meaning?

23 Q. Do you meet at the township
24 building on Anne Worth's property
25 once a month?

1 A. Generally we do, yes.

2 Q. And what do you call those
3 meetings?

4 A. They're just administrative
5 meetings.

6 Q. Do you advertise the
7 administrative meetings?

8 A. No, I don't think they're
9 advertised.

10 Q. Are they open to the public?

11 A. Well, they'd be open if they
12 wanted to come, yeah.

13 Q. How would the public know
14 about the administrative meeting?

15 A. Well, I don't know. They all
16 know that we do this. It's just a
17 short meeting. It's setting up our
18 agenda for the next meeting and
19 making out checks.

20 Q. When are those administrative
21 meetings generally held?

22 A. Monday, Tuesday evening --- or
23 afternoon it is, I guess.

24 Q. Is that the Monday or Tuesday
25 just prior to ---

1 A. Prior, yeah.

2 Q. --- the regular meeting?

3 A. Yeah.

4 Q. How long have the
5 administrative meetings been going
6 on?

7 A. Quite some time, I guess.

8 Q. As long as you've been the
9 supervisor?

10 A. I won't say that long, no.
11 I'd hate to say how long they've been
12 going on.

13 Q. Have they been going on as
14 long as Anne Worth has been a
15 secretary?

16 A. Yeah. I think it was before
17 that maybe.

18 Q. Do you recall where they would
19 have been held?

20 A. No, I can't tell you that.

21 ATTORNEY THORP:

22 Excuse me. Let me go
23 see if I can tell them ---.

24 BRIEF INTERRUPTION

25 ATTORNEY MALADY:

1 Okay. Thank you.

2 BY ATTORNEY MALADY:

3 Q. Mr. Weiler, I think that you
4 had testified a little earlier that
5 when you were waiting for the
6 deposition with Anne Worth, you were
7 not reading anything while sitting in
8 her car; is that correct?

9 A. Yes.

10 Q. I can represent to you that
11 when we pulled in there was a stack
12 of white papers on your lap that you
13 appeared to be reading. Can you tell
14 me what they were?

15 A. There were no white papers on
16 my lap.

17 Q. There was no paper --- you
18 were reading nothing?

19 A. Uh-uh (no). No, there was no
20 papers.

21 Q. Mr. Weiler, has anyone
22 requested that you perform a document
23 search in relation to the lawsuit
24 filed by Mr. Corneal?

25 A. No.

1 Q. Have you been provided with a
2 copy of a document that's entitled a
3 request for production of documents?

4 A. No.

5 Q. Were you aware that there was
6 an outstanding request for documents?

7 A. No.

8 Q. So you haven't looked in any
9 of your files for any documents
10 related to Mr. Corneal's property?

11 A. I have not looked in any
12 files.

13 Q. Do you have any files that are
14 related to Mr. Corneal's property?

15 A. Do I have?

16 Q. Yes.

17 A. No.

18 Q. Do you have any documents of
19 any kind related to Mr. Corneal's
20 property?

21 A. No.

22 Q. Did the Board of Supervisors
23 --- let me ask you, has the Board of
24 Supervisors ever discussed Mr.
25 Corneal's property?

1 A. Well, I've heard it discussed,
2 yes, at the meetings here.

3 Q. Just at the regular meetings?

4 A. Yeah.

5 Q. What were those discussions?

6 A. What were they?

7 Q. Yes. Can you tell me the
8 basis for them? Well, let me ask you
9 this. Were you present at the
10 February 2000 Board of Supervisors
11 regular meeting?

12 A. What was that one?

13 Q. That was the meeting at which
14 Mr. Corneal submitted his subdivision
15 plan.

16 A. Yes. I was there.

17 Q. Can you tell me what happened
18 at the meeting?

19 A. I don't know. He just came up
20 here and slammed them down on the
21 table and then he took off. He was
22 very disturbed.

23 Q. Why was he disturbed?

24 A. I don't know what it was over.
25 It was over this building out there.

1 But everybody has to have a building
2 permit to build in Jackson Township
3 and Corneal's going to have to have
4 one too. That's what it amounts to.

5 Q. When he attended the February
6 meeting, was he looking for a
7 building permit?

8 A. I forget what he was looking
9 for. No, I don't believe.

10 Q. So he wasn't looking for a
11 building permit at the February 2000
12 meeting?

13 A. No.

14 Q. Do you recall that he had
15 submitted a subdivision plan to the
16 Board at the February meeting?

17 A. I remember once that he did.
18 I didn't know if it was just then,
19 but I remember once that he did.

20 Q. What was the result of his
21 submitting the subdivision plan to
22 the Board?

23 A. It wasn't really a subdivision
24 plan.

25 Q. What was it?

1 A. It was maybe his idea. It
2 isn't what all the rest of the people
3 put in. I could say --- everybody
4 else has to have a permit to do
5 things here, and he will too.

6 Q. Did Jackson Township have a
7 subdivision ordinance in February
8 2000?

9 A. I think we were working on
10 one. I think that's what it was.

11 Q. But one had not been enacted?

12 A. I can't tell you for sure when
13 we did enact that.

14 Q. Mr. Weiler, I apologize. My
15 co-counsel just pointed out to me
16 that I needed to let you know, if you
17 need to take a break at any time,
18 just let me know.

19 A. Okay.

20 Q. If you need to get some water,
21 get some air, anything like that,
22 make sure that you're feeling all
23 right.

24 A. Okay.

25 Q. Let me ask you a little bit

1 about the moratorium. When did the
2 Board first consider imposing a
3 moratorium?

4 A. I can't tell you that. I
5 don't know for sure what date it was.

6 Q. Do you remember what month it
7 was?

8 A. No, I don't remember. I
9 imagine it was December, January we
10 talked about it probably, but I won't
11 say for certain on that.

12 Q. Would that be December 1999,
13 January 2000?

14 A. I don't know for sure.

15 Q. I'm going to show you a
16 document we'll mark Weiler Exhibit
17 Two. Do you want to take a look at
18 that, please?

19 (Deposition Exhibit
20 Number Two marked for
21 identification.)

22 A. Is this explaining the
23 moratorium, or not. Is this what
24 you're doing here?

25 Q. I believe that it is. Does

1 that refresh your recollection as to
2 when the moratorium was imposed?

3 A. Well, it says here January the
4 4th, 2000.

5 Q. Did the Board discuss imposing
6 a moratorium sometime before this
7 meeting?

8 A. Probably it was discussed in
9 January --- or in December.

10 Q. Do you remember those
11 discussions?

12 A. No. I can't tell you now.

13 Q. Do you know who brought up the
14 moratorium?

15 A. Not for sure.

16 Q. Did you bring it up?

17 A. No, no.

18 Q. Did Mr. Yoder bring it up?

19 A. No. I presume it might have
20 been Paul.

21 Q. And why is that?

22 A. Well, I don't know. He's just
23 --- you know, said that. I don't
24 know for sure who did bring it up.

25 Q. Did you vote on the

1 moratorium?

2 A. Yes.

3 Q. Do you see any record of that
4 vote?

5 A. You mean on here?

6 Q. Yes, sir.

7 A. I don't see it here. But see,
8 we've been working on this before
9 that even, must have been.

10 Q. Do you recall discussing it at
11 any of your administrative meetings?

12 A. No. Well, there would be no
13 decisions. We can't make decisions
14 there.

15 Q. Did you discuss it?

16 A. Well, this one I don't
17 remember. I can't say for sure.

18 Q. Do you recall why the issue of
19 a moratorium was brought up?

20 A. Well, we did this to get ready
21 for this thing.

22 Q. To get ready for what thing?

23 A. Ready for this subdivision.

24 There were places these grounds were
25 on subdivision now to, you know, have

1 an orderly building fashion.

2 Q. How many subdivisions would
3 you say Jackson Township has seen
4 requests for in the year 2001? Let
5 me rephrase that. That was terrible.
6 How many subdivision requests did
7 Jackson Township receive in the year
8 2001, to the best of your knowledge?

9 A. Well, we had two that was held
10 up due to this moratorium. We had
11 two besides Mr. Corneal that I can
12 think of right now.

13 Q. That was the year 2000; wasn't
14 it?

15 A. Whatever year we put this into
16 effect, there was work on it, at the
17 moratorium. There was two of them
18 out there hanging on that.

19 Q. But generally, to the best of
20 your knowledge, how many subdivision
21 applications does the Board of
22 Supervisors receive in a given year?

23 A. I don't know.

24 Q. Would you say five?

25 A. That may cover it. Yes, that

1 may cover it.

2 Q. I think that you testified
3 that the moratorium came up because
4 you were considering the subdivision
5 ordinance; is that correct?

6 A. Yeah.

7 Q. When did you begin to consider
8 that subdivision ordinance?

9 A. I don't know. I don't know.

10 Q. Would you say it was a year
11 before the moratorium?

12 A. Could have been. I just can't
13 tell you off hand.

14 Q. Could it have been more than a
15 year before the moratorium?

16 A. I don't know.

17 Q. Do you recall how long the
18 moratorium was in effect?

19 A. Not now. I don't remember.

20 Q. Do you recall when you --- do
21 you recall when the subdivision
22 ordinance went into effect?

23 A. I can't recall what day it
24 was, you know, month and year.

25 Q. Do you know if there was an

1 advertisement regarding the
2 moratorium?

3 A. Yes. I think there was a
4 piece in the paper. Anything we do,
5 it's always in the paper.

6 Q. And why is that?

7 A. State law, I guess.

8 Q. So if it's not advertised in
9 the paper, it's not lawful?

10 A. I don't know what to say about
11 that. Most of your stuff, like bids
12 for warrants down and so on, that has
13 to be advertised. So I supposed that
14 this is the same.

15 Q. Now, you testified that you
16 were present at the February 2000
17 meeting when Mr. Corneal submitted
18 what he thought was a subdivision
19 plan?

20 A. Yes.

21 Q. I think that you testified
22 that it wasn't a subdivision plan in
23 your opinion; is that correct?

24 A. From the Board's opinion, it
25 wasn't.

1 Q. And why ---?

2 A. He didn't --- you know, he
3 just threw it down and I gathered he
4 was mad, and out he went.

5 Q. Why was he upset, do you know?

6 A. I have no idea.

7 Q. Now, when you say it wasn't a
8 subdivision plan, in your opinion,
9 what was that opinion based on?

10 A. Of what other ones are like,
11 how they're drawn up and so on.

12 Q. What do you compare a
13 subdivision ordinance --- or, I'm
14 sorry, a subdivision plan to?

15 A. Well, you see them going
16 through here. You know what they're
17 like.

18 Q. But are there some standards
19 that the Board compares a subdivision
20 application to?

21 A. Well, yeah. There's certain
22 things they have to have in it, yes.

23 Q. What things would that be?

24 A. Have to have a topo map of the
25 area. I can't tell you what all they

1 do to have that.

2 Q. Where are these requirements
3 found?

4 A. In the subdivision ordinance,
5 in our ordinance.

6 Q. But at the time that Mr.
7 Corneal submitted that subdivision,
8 you didn't have a subdivision
9 ordinance?

10 A. That's what we had the
11 moratorium on.

12 Q. But at the time he submitted
13 that subdivision plan, where were the
14 standards for a subdivision to be
15 considered by the Board?

16 A. Well, that was the one I think
17 he was making up; wasn't it?

18 Q. But it hadn't been enacted?

19 A. No. I didn't say it had been.

20 Q. So would you say it's fair
21 that at the time that Mr. Corneal
22 submitted his subdivision plan, there
23 were no enacted standards by which
24 the Board could review his
25 subdivision application?

1 A. I don't know if we had that
2 enacted then. I don't know.

3 Q. I'm going to ask you a couple
4 of questions about the Hewitts. Are
5 you familiar with the Hewitts?

6 A. No.

7 Q. Were you aware that Mr.
8 Corneal had an agreement of sale with
9 the Hewitts?

10 A. I think I heard that or
11 something, yes.

12 Q. Do you know where you heard
13 that?

14 A. I can't tell you where it was.

15 Q. Did Mr. Wilson tell you?

16 A. No, I don't think.

17 Q. Did Anne Worth tell you about
18 it?

19 A. I don't know if she even knows
20 them. I don't know. I can't
21 remember how that did come about.

22 Q. Was it discussed at a regular
23 meeting of the Board?

24 A. They were here one night.

25 Q. And what happened when they

1 were here?

2 A. That was probably that
3 February meeting that you were
4 talking about. That's right, they
5 were here. They even kind of
6 apologized for Corneal's actions.

7 Q. What did they say?

8 A. I don't remember.

9 Q. Did they get up and speak to
10 the Board?

11 A. I think they spoke to somebody
12 afterwards. After the meeting,
13 though, I think they came out and
14 talked.

15 Q. Did they talk to you?

16 A. No, I don't think they did.

17 Q. Did they talk to Anne?

18 A. No. They may have talked to
19 Yoder. I just forget who it was.
20 They talked, I know that. I heard
21 that.

22 Q. Did the Board ever discuss
23 what the Hewitts had talked to one of
24 the supervisors about?

25 A. I don't know what it was, no,

1 as far as I know.

2 Q. Did you, or any member of the
3 Board, ever discuss the Hewitts at
4 one of your administrative meetings?

5 A. No.

6 Q. Were you aware that the
7 Hewitt's wanted to buy a part of Mr.
8 Corneal's property?

9 A. No. I believe maybe that
10 there was something said about that.

11 Q. Do you know who said something
12 about it?

13 A. On some of these papers that
14 Corneal handed in, it showed where
15 the Hewitts were on there. That's
16 where I think I seen that.

17 Q. Were those papers part of the
18 subdivision plan?

19 A. I don't know about that.

20 Q. Do you recall that Mr. Corneal
21 submitted something after the
22 subdivision plan?

23 A. He wasn't going to subdivide
24 one time, and then the next time he
25 was. Okay.

1 Q. Are you familiar with Mr.
2 Corneal's property here in Jackson
3 Township?

4 A. No. Just driving along the
5 road is all I know.

6 Q. Have you ever been there?

7 A. No. Never on it, never set a
8 foot on it.

9 Q. Were you aware that it used to
10 belong to Mr. Wilson's grandfather?

11 A. No. That must have been long
12 ago.

13 Q. Approximately how far from Mr.
14 Corneal's property do you live?

15 A. Well, do you know where it's
16 at?

17 Q. I do not.

18 A. You have to go out 26 about a
19 mile, turn off the road. And the
20 first --- I live a mile up this
21 narrow road over here. Driving about
22 four miles. No, about two and a half
23 miles.

24 Q. Were you aware that Barry
25 Parks had approved sewage modules for

1 Mr. Corneal's property?

2 A. Yes. I had heard that.

3 Q. Are you aware of any actions
4 that the Board took after Barry Parks
5 approved those sewage modules?

6 A. Well, I did hear that Corneal
7 destroyed them after they were
8 approved there.

9 Q. He destroyed what?

10 A. Where they're supposed to put
11 their septic systems and so on.

12 Q. How did he destroy them?

13 A. By running trucks and tractors
14 over them.

15 Q. And where did you hear that
16 from?

17 A. That was probably heard at the
18 meeting, too.

19 Q. Would that have been at a
20 regular meeting?

21 A. Yeah.

22 Q. Did you discuss it at any
23 administrative meetings?

24 A. No.

25 Q. Did you ever review Mr.

1 Corneal's approved sewage modules?

2 A. I have looked at them. I have
3 looked at them.

4 Q. Did the Board ever approve
5 those Sewage modules?

6 A. I'm sure they looked at them.

7 Q. Did they approve them?

8 A. Not while that --- not when he
9 destroyed that --- the sewage module.

10 Maybe I'm talking about is two
11 different things, that's right. I
12 won't say.

13 Q. And why is that?

14 A. What?

15 Q. Why won't you say?

16 A. Well, you're talking sewage
17 module and I'm talking about where he
18 done his test probes for his septic
19 system, that's all.

20 Q. Let me ask you this. He did
21 his test probes and Barry Parks
22 signed his sewer module application.

23 A. Okay.

24 Q. Was that module submitted to
25 the Board; do you know?

1 A. I don't know if that's the one
2 or not. I don't know if it was.

3 Q. Do you know if the Board ever
4 approved any sewage module
5 application from Mr. Corneal?

6 A. I don't know. I don't know of
7 it.

8 Q. Do you have any knowledge of
9 Mr. Corneal's visiting Mr.
10 Vandomalen's (phonetic) home?

11 A. No.

12 Q. Did you know Mr. Corneal went
13 to Mr. Vandomalan's home and told him
14 to get a building permit application?

15 A. No.

16 Q. You have no knowledge of that?

17 A. I don't think, no.

18 Q. The Board never discussed Mr.
19 Corneal's seeking a building permit
20 application?

21 A. There was something said about
22 him, yes, about him wanting a
23 building permit.

24 Q. What was said?

25 A. I forget what happened there.

1 Q. Do you recall who was present
2 at the discussion?

3 A. It was probably our Board
4 here.

5 Q. Would Anne Worth have been
6 there?

7 A. Sure. She's at all our board
8 meetings.

9 Q. Would it have been a board
10 meeting?

11 A. Yeah. That's where we make
12 all the decisions.

13 Q. But I'm not asking you if you
14 made any decisions, I'm just asking
15 if you discussed it?

16 A. I don't think we did.

17 Q. Did Mr. Vandomalan ever come
18 see the Board to discuss it?

19 A. He was at all the meetings. I
20 imagine he did discuss that, yeah.

21 Q. Does Mr. Vandomalan ever go to
22 any of the administrative meetings?

23 A. No.

24 Q. He's never attended ---.

25 A. I don't think, uh-uh (no).

1 Q. So do you have any
2 recollection of the discussion
3 regarding Mr. Corneal's seeking a
4 building permit?

5 A. No.

6 Q. Were you aware that Mr.
7 Corneal tried to get a privy permit
8 from the Board?

9 A. Uh-uh (no).

10 Q. You didn't know anything about
11 that?

12 A. No. Privy permit?

13 Q. Yes, sir.

14 A. Don't recall that one either.

15 Q. Mr. Weiler, have you ever
16 talked to Larry Newton about Mr.
17 Corneal?

18 A. I may have. I don't know.
19 See, he's our attorney. I may have.

20 Q. Did you call him on the phone?

21 A. If I talked to him, that's
22 probably what it was.

23 Q. Did you talk to him by
24 yourself or were you in a group?

25 A. Well, you're talking about

1 Corneal, so there had to have been
2 somebody else, some of the other ones
3 there to have done that. He's also
4 my attorney.

5 Q. Did you ever discuss with Mr.
6 Newton the moratorium that the Board
7 was considering?

8 A. Well, he's been to our
9 meetings and we touched on that, I
10 think at a meeting.

11 Q. Did you discuss it with him
12 yourself?

13 A. No. It was just a meeting.

14 Q. Mr. Weiler, did you know that
15 Mr. Corneal submitted a building
16 permit application to the township?

17 A. I didn't know he put in an
18 application, I don't think.

19 Q. Did you know he filled out an
20 application?

21 A. I can't say as I did.

22 Q. Did you ever see his
23 application?

24 A. I can't say that I did. I
25 don't know. I don't believe I did.

1 Q. Did you personally review his
2 subdivision application?

3 A. We have it here on the table
4 and we looked over it. We go over
5 it. All of us go over everything.

6 Q. Do you recall why Mr. Corneal
7 left the meeting or when Mr. Corneal
8 left the meeting after your reviewing
9 his subdivision plan?

10 A. No.

11 Q. Do you recall what he was told
12 to do with the subdivision plan?

13 A. No.

14 Q. Do you normally refer
15 subdivision plan applicants to the
16 county?

17 A. Yes.

18 Q. And why is that?

19 A. Well, they go over them first,
20 the County planners, and then they
21 send them back to us with
22 recommendations on it.

23 Q. Do you have some ordinance or
24 document that requires the county to
25 look at the subdivision applications

1 first?

2 A. I don't know. I don't know.

3 ATTORNEY MALADY:

4 Just give me a minute.

5 Michele, do you have any

6 questions?

7 ATTORNEY THORP:

8 No.

9 ATTORNEY MALADY:

10 Tony?

11 ATTORNEY THORP:

12 No.

13 ATTORNEY MALADY:

14 That's it. You're

15 done.

16 * * * * *

17 DEPOSITION CONCLUDED AT 11:15 A.M.

18 * * * * *

19

20

21

22

23

24

25

1 COMMONWEALTH OF PENNSYLVANIA)

2 COUNTY OF BLAIR)

3 C E R T I F I C A T E

4 I, Jane E. Messner, a Notary Public in and for
5 the Commonwealth of Pennsylvania, do hereby certify:

6 That the witness was first duly sworn to testify
7 to the truth, the whole truth, and nothing but the
8 truth; that the foregoing deposition was taken at the
9 time and place stated herein; and that the said
10 deposition was taken stenographically by me and
11 reduced to typewriting, and constitutes a true and
12 correct record of the testimony given by the witness.

13 I further certify that the reading and signing
14 of said depositions were (not) waived by counsel for
15 the respective parties and by the witness.

16 I further certify that I am not a relative,
17 employee or attorney of any of the parties, nor a
18 relative or employee of counsel, and that I am in no
19 way interested directly or indirectly in this action.

20 IN WITNESS WHEREOF, I have hereunto set my hand
21 and stamp this 19 day of July 2001.

22 *Jane E. Messner*
23

24 **NOTARIAL SEAL**
JANE E. MESSNER, Notary Public
Hollidaysburg Boro, Blair County, PA
My Commission Expires Dec. 27, 2001

25 •PITTSBURGH, PA

•CLEARFIELD, PA

•STATE COLLEGE, PA

•HOLLIDAYSBURG, PA

•ERIE, PA

•OIL CITY, PA

•HARRISBURG, PA

SARGENT'S
COURT REPORTING
SERVICE, INC.

210 Main Street
Johnstown, PA 15901

•INDIANA, PA

•GREENSBURG, PA

•PHILADELPHIA, PA

•SOMERSET, PA

•WILKES-BARRE, PA

•CHARLESTON, WV

Exhibit 4

WIRTH, ANN
05/16/01

CORNEAL VS
JACKSON TOWNSHIP

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 VS : NO. 1:CV-00-1192
7 JACKSON TOWNSHIP, HUNTINGDON :
8 COUNTY, PENNSYLVANIA; W. :
9 THOMAS WILSON, individually :
10 and in his official capacity :
11 as Supervisor of Jackson :
12 Township; MICHAEL YODER, :
13 individually and in his :
14 official capacity as :
15 Supervisor of Jackson :
16 Township; RALPH WEILER, :
17 individually and in his :
18 official capacity as :
19 Supervisor of Jackson :
20 Township; BARRY PARKS, :
21 individually and in his :
22 official capacity as Sewage :
23 Enforcement Officer of :
24 Jackson Township; DAVID :
25 VAN DOMMELEN, individually :
26 and in his official capacity :
27 as Building Permit Officer; :
28 ANN L. WIRTH, individually :
29 and in her official capacity :
30 as Secretary of Jackson :
31 Township; and LARRY NEWTON, :
32 individually and in his :
33 official capacity as :
34 Solicitor to Jackson :
35 Township, :
36 DEFENDANTS :
37 DEPOSITION OF: ANN WIRTH
38 TAKEN BY: PLAINTIFFS
39 BEFORE: TERESA K. BEAR, REPORTER
40 NOTARY PUBLIC
41 DATE: MAY 17, 2001, 9:10 A.M.
42 PLACE: ECKERT SEAMANS
43 213 MARKET STREET
44 HARRISBURG, PENNSYLVANIA

WIRTH, ANN
05/16/01

CORNEAL VS
JACKSON TOWNSHIP

2

1 APPEARANCES:
 2 ECKERT SEAMANS
 3 BY: BRIDGET E. MONTGOMERY, ESQUIRE
 4 LESLIE A. MALADY, ESQUIRE
 5 FOR - PLAINTIFFS
 6 MAYERS, MENNIES & SHERR, LLP
 7 BY: ANTHONY R. SHERR, ESQUIRE
 8
 9 FOR - ALL DEFENDANTS EXCEPT NEWTON
 10 THOMAS, THOMAS & HAFFER, LLP
 11 BY: MICHELE J. THORP, ESQUIRE
 12 FOR - DEFENDANT - RALPH WEILER
 13 METTE, EVANS & WOODSIDE
 14 BY: JENNIFER YANKANICH, ESQUIRE
 15
 16 FOR - DEFENDANT - LARRY NEWTON
 17
 18 ALSO PRESENT:
 19 DAVID B. CORNEAL
 20
 21
 22
 23
 24
 25

3

| | | |
|----|--|-------------------------------|
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4

1 ANN WIRTH, called as a witness, being sworn,
 2 testified as follows:
 3
 4 DIRECT EXAMINATION
 5
 6 BY MS. MONTGOMERY:
 7 Q Would you state your name for the record.
 8 A **Ann Wirth.**
 9 Q I think we met briefly yesterday. I'm Bridget
 10 Montgomery and as you probably know I represent the Corneals
 11 in this action. I'm going to take your deposition today.
 12 Have you ever been deposed before?
 13 A **No.**
 14 Q I'm going to give you just a few of the ground
 15 rules. Probably the first and most important one is for the
 16 benefit of the court reporter. If you could keep your voice
 17 up --
 18 A **Okay.**
 19 Q -- and give her verbal responses, yeses or
 20 noes. You can't do shakes of the head or anything because
 21 she can't hear that and she can't take that down. We also
 22 have to try and let each other finish our sentences. So if
 23 I'm asking a question, just try to wait until I'm finished
 24 and then I'll try to wait until you're finished with your
 25 answer to start talking because she can't take down two

5

1 people at once, okay.
 2 If there's anything that you don't understand
 3 about any question that I ask you, you should feel free to
 4 ask me to repeat it. I want you to understand my question
 5 and I want you to be able to give me the best, clearest
 6 answer possible. So you shouldn't be shy about that at all
 7 if you don't understand it, okay?
 8 A **Okay.**
 9 Q If you are in need of a break, you know, to
 10 use the ladies room or whatever, just to stretch your legs,
 11 you're free to ask for that as well. We do want you to be
 12 comfortable. I'm not sure how long we'll be here, but I
 13 want you to be comfortable while you are here. If you need
 14 a glass of water, a cup of coffee, just get up and get it,
 15 okay?
 16 A **Okay.**
 17 Q Is there any reason why you couldn't give a
 18 deposition today and understand questions and give clear
 19 answers in return? For instance, are you on any sort of
 20 medication or anything like that?
 21 A **No.**
 22 Q Have you ever been a party to a lawsuit
 23 before?
 24 A **No.**
 25 Q Have you discussed the substance of your

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1 deposition or intended deposition testimony with anyone?
2 A I don't know what you mean. You mean what I
3 -- what you want me to say or what somebody wanted me to
4 say?
5 Q Yes.
6 A No.
7 Q Not with anybody at all?
8 MR. SHERR: I'm going to object to the form of
9 the question and exclude from that any conversations she had
10 with her attorney.
11 MS. MONTGOMERY: Okay.
12 BY MS. MONTGOMERY:
13 Q Other than your counsel, have you discussed --
14 A No.
15 Q You have not talked about the fact that you
16 will be deposed? You have not talked about that with the
17 supervisors at all?
18 A Oh, we've all talked about being deposed
19 but --
20 Q And what was the nature of those
21 conversations?
22 A I don't know what you're asking me.
23 Q Well --
24 A Just that we have to come and tell the truth
25 and say whatever has happened, that's all.

7

1 Q Who have you discussed it with exactly?
2 MR. SHERR: Again, other than your -- other
3 than --
4 BY MS. MONTGOMERY:
5 Q Other than your attorney Mr. Sherr.
6 MR. SHERR: -- your attorney.
7 THE WITNESS: Probably my husband, who is my
8 sounding board for a lot of things and is not involved in
9 anything at all.
10 BY MS. MONTGOMERY:
11 Q Among the supervisors who have you talked to?
12 A Probably everybody.
13 Q In connection with this litigation, have you
14 performed a search for documents?
15 A Yes, I did.
16 Q When did you do that?
17 A Last week.
18 Q When were you first asked to do that?
19 MR. SHERR: I'm going to object to the form of
20 the question to the extent she was asked by her attorney
21 because it's privileged. Don't answer with respect to
22 anything -- conversations that we had.
23 MS. MONTGOMERY: That's not a privileged
24 question.
25 MR. SHERR: Well, we'll let the court decide

8

1 that. I'm going to instruct her not to answer --
2 BY MS. MONTGOMERY:
3 Q When were you first asked --
4 MS. MONTGOMERY: Are you instructing your
5 witness not to answer that question?
6 MR. SHERR: To the extent the request came
7 from me, yes.
8 MS. MONTGOMERY: Well, she didn't have to tell
9 me who it came from.
10 BY MS. MONTGOMERY:
11 Q Were you asked by anybody at any time prior to
12 -- let me back up a second. Were you asked by anybody at
13 any time, and I'm not asking you who, to search for
14 documents in connection with this lawsuit last September,
15 September of 2000?
16 MR. SHERR: Again, I'm going to object to the
17 extent that any request came from me. Other than anything
18 from your attorney, you may answer that.
19 THE WITNESS: No.
20 BY MS. MONTGOMERY:
21 Q You weren't asked by anybody, not one single
22 soul?
23 A No.
24 Q When is the first time that anybody -- and I'm
25 not asking you who asked you to look for documents, but when

9

1 was the first time anybody asked you to look for documents
2 in connection with this lawsuit?
3 MR. SHERR: I'm going to object again based on
4 privilege and instruct you not to answer with respect to any
5 conversation --
6 MS. MONTGOMERY: I haven't asked you what
7 your --
8 MR. SHERR: Please. With respect to any
9 conversations that you had with your attorney.
10 MS. MONTGOMERY: Are you instructing your
11 witness not to tell me whether anybody -- not identifying
12 that person, but whether -- you're instructing her not to
13 tell me whether anybody, without identifying who it was,
14 asked her for documents? Is that your instruction?
15 MR. SHERR: I made my objection.
16 MS. MONTGOMERY: But you need to make it very
17 clear because when I take this to the court I want to be
18 able to tell the court exactly what you told your witness
19 not to say.
20 MR. SHERR: Let me make it really clear.
21 MS. MONTGOMERY: Okay.
22 MR. SHERR: I'm instructing the witness not to
23 answer with respect to conversations she had with her
24 attorney.
25 MS. MONTGOMERY: Okay, thank you.

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| | |
|---|--|
| <p style="text-align: right;">10</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Have any of the supervisors asked you to look</p> <p>3 for documents in connection with this lawsuit?</p> <p>4 A No.</p> <p>5 Q Has anybody other than your attorney asked you</p> <p>6 to look for documents in connection with this lawsuit?</p> <p>7 A No.</p> <p>8 MR. SHERR: That you can answer.</p> <p>9 THE WITNESS: No, no.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q And so when is the first time that you</p> <p>12 actually looked for documents in connection with this</p> <p>13 lawsuit?</p> <p>14 MR. SHERR: Objection, privileged. I'm going</p> <p>15 to instruct the witness not to answer.</p> <p>16 MS. MONTGOMERY: What?</p> <p>17 BY MS. MONTGOMERY:</p> <p>18 Q When was the first time that you actually</p> <p>19 looked for documents in connection with this lawsuit?</p> <p>20 MR. SHERR: Objection, asked and answered.</p> <p>21 You can answer the question. You can answer.</p> <p>22 THE WITNESS: Okay. Last week.</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q And what did you do in looking for documents?</p> <p>25 A I got a request, something that said request,</p> | <p style="text-align: right;">12</p> <p>1 A No.</p> <p>2 Q -- privilege?</p> <p>3 A No.</p> <p>4 Q Do you know whether any documents were</p> <p>5 withheld based on privilege?</p> <p>6 A No.</p> <p>7 Q You don't know?</p> <p>8 A No, I don't know.</p> <p>9 Q Did the supervisors review the documents that</p> <p>10 you sent out?</p> <p>11 A No.</p> <p>12 Q So you handled completely the document</p> <p>13 production?</p> <p>14 A Right.</p> <p>15 Q Did you ask for any assistance from anybody in</p> <p>16 handling the document production?</p> <p>17 A No.</p> <p>18 Q Did you talk to anybody about anything or did</p> <p>19 you talk to other people? Did you say do you know where</p> <p>20 this document is or anything like that?</p> <p>21 A No.</p> <p>22 Q Well, let's talk about how documents are kept</p> <p>23 on behalf of the township. How are they kept, just</p> <p>24 generally tell me?</p> <p>25 A In a file cabinet.</p> |
| <p style="text-align: right;">11</p> <p>1 and I put together all the documents that I could put</p> <p>2 together on that list.</p> <p>3 Q Is that the first time you got that request,</p> <p>4 the written request?</p> <p>5 A I'm not really sure of that. I'm not really</p> <p>6 sure of that.</p> <p>7 Q You don't know if last week was the first time</p> <p>8 you ever looked at it?</p> <p>9 A I don't know that for sure, when that came to</p> <p>10 me. I really don't.</p> <p>11 Q Well, let's try and narrow it down a little</p> <p>12 bit. Did it come to you within the last month?</p> <p>13 A You're asking me during tax season so it's</p> <p>14 kind of a hard thing for me to pinpoint when I got that. I</p> <p>15 don't know.</p> <p>16 Q Did it come to you last year?</p> <p>17 A Oh, no.</p> <p>18 Q It didn't come to you in the year 2000?</p> <p>19 A No, I know that.</p> <p>20 Q So what did you go about doing in attempting</p> <p>21 to look for documents in response to that request?</p> <p>22 A I went down the list and I accumulated what</p> <p>23 was on that list that I could provide you from my office</p> <p>24 with. That's what I did.</p> <p>25 Q Did you withhold any documents based on --</p> | <p style="text-align: right;">13</p> <p>1 Q How big?</p> <p>2 A Four drawers, there's two.</p> <p>3 Q Do you have documents --</p> <p>4 A In a binder for the land ordinances.</p> <p>5 Q In a binder? And a binder or in a binder did</p> <p>6 you say?</p> <p>7 A In a binder.</p> <p>8 Q So there's binders in the file cabinets?</p> <p>9 A There's a binder on top of the file cabinet.</p> <p>10 Q Plus there's documents inside the file</p> <p>11 cabinet, correct?</p> <p>12 A Yes.</p> <p>13 Q Do you have documents that are retained only</p> <p>14 on computer?</p> <p>15 A Not that I'm aware of.</p> <p>16 Q Did you look on the computer for any documents</p> <p>17 that might be there that might be related to the document</p> <p>18 request that was sent to you?</p> <p>19 A I don't have any documents on the computer.</p> <p>20 Q Do you have a computer?</p> <p>21 A I shouldn't -- oh, yeah.</p> <p>22 Q I'm sorry?</p> <p>23 A I have a computer. We have two computers --</p> <p>24 well, we have a computer.</p> <p>25 Q You started to say I shouldn't.</p> |

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14

1 A The -- the ordinance is on the computer, but I
2 didn't get it off the computer.
3 Q Do you maintain correspondence on the computer
4 at all?
5 A We don't write very many letters so there's
6 just -- there's nothing on the computer except that and the
7 accounting.
8 Q What about the minutes?
9 A And the minutes are on there.
10 Q So the minutes are --
11 A Yeah, the minutes are on there, correct.
12 You're right.
13 Q Anything else at all on the computer that you
14 can think of?
15 A Yeah, there's -- PennDOT now has put out a
16 disk that we have that we can put out our liquid fuel forms
17 and that sort of thing and that's on the computer.
18 Q Do you maintain disks at all?
19 A No.
20 Q So you have a hard drive?
21 A Yes.
22 Q Everything is kept on the hard drive, nothing
23 is copied off on separate disks?
24 A Only to backup.
25 Q So you maintain backup files?

15

1 A Oh, yeah.
2 Q Do you know whether you have correspondence or
3 other documents on backup?
4 A I backup my computer all the time so
5 everything is there. I back it up from front to back and
6 it's there.
7 Q Well, just to be clear on your answer, because
8 I'm not sure I heard it correctly, did you actually do a
9 search of your computer files, whether on the computer or on
10 backup to see whether or not there was anything available
11 that would be responsive to the document requests that were
12 given to you?
13 A No.
14 Q Are there documents related to township
15 business that are kept anywhere else besides the township
16 office where you work?
17 A I don't know what kind of documents you're
18 talking about.
19 Q Any documents related to township business in
20 any way.
21 A Yes.
22 Q And where is that?
23 A The building permits are not kept in-house.
24 Q Did you look -- where are they kept?
25 A David Van Dommelen has them.

16

1 Q Where does he keep them?
2 A In his home.
3 Q Did you ask him to give you the building
4 permits?
5 A I -- I asked him for a list of the building
6 permits and that's what I gave you.
7 Q But I thought you said you didn't ask anybody
8 to help you in connection with the document production?
9 A No, I only asked to get the information. I
10 didn't ask anybody to look it up for me. I just -- I must
11 have misunderstood what you meant. I simply asked David to
12 give me his list of all the building permits. I did the
13 same thing with the county. So if I misunderstood what you
14 said, I'm sorry. I did the same thing with the county.
15 Q That's okay. I mean, if you misunderstood,
16 then we'll just clear it up. So my question was: Did you
17 talk to anybody in connection with performing this
18 collection of documents?
19 A Yes, I did then.
20 Q And who did you talk to?
21 A I talked to David Van Dommelen and I asked him
22 to give me a list. I did not ask him for the permits
23 because they're cumbersome. I did ask him for a list of all
24 permits that were issued from -- I think you said June '99
25 to present and he did do that. And then I talked to Richard

17

1 Stahl and I asked him to give me a list of every one that
2 went into the county to be reviewed from whenever and he
3 sent me a list of everything that's ever been in there.
4 Q And you provided both of those lists to us?
5 A Yes, I did.
6 Q To your attorney anyway.
7 A And to you. They were here yesterday. I saw
8 them.
9 Q When you say that the building permits are too
10 cumbersome, why are they too cumbersome? Can you describe
11 that for me?
12 A Well, I -- I have to take -- you have to
13 understand I'm the only person that does this, okay. So I
14 had to go -- I'd have to go get them and copy --
15 applications I would have had to copy. We don't have copies
16 of the building permits, okay, just the applications, is all
17 I would have. And I would have to go since 1999 and copy --
18 get David's book and copy it in my -- in the office or take
19 it somewhere.
20 Q Does David keep them in a binder or something?
21 A I really don't know.
22 Q So the applications are what, one page, two
23 page --
24 A I have no idea because I don't do that.
25 Q So when you issue a building permit -- when

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1 the township issues a building permit, you don't keep a copy
2 of the permit?
3 A No, I don't.
4 Q Does anybody keep a copy of the permit?
5 A You'll have to ask David that. I don't
6 actually know what he has in that -- in his files. I know
7 he keeps a list which he provides to the supervisors and
8 that's why I asked for that.
9 Q So what you sent us was a list of permits --
10 A That were issued.
11 Q That were issued?
12 A Right.
13 Q Did you send us a list of applications for
14 permits?
15 A That's the same. I don't think there's any
16 difference, but you'll have to ask David that.
17 Q And you don't think there's any difference
18 why?
19 A I don't know. I honestly don't know. You'll
20 have to ask David that. I don't know what he does. That's
21 not under me.
22 Q So then you talked to Richard Stahl to get
23 what from him?
24 A I asked him to give us a list of permits -- or
25 of subdivisions that we have submitted to him, just a list,

19

1 to show that we were sending everything in there. And he
2 did send me a completed list of -- they must keep track of
3 them when they come in in that routine and that's what he
4 sent.
5 Q Anybody else?
6 A No, those are the only two places I requested
7 anything.
8 Q Did you look anywhere outside the township
9 offices --
10 A No.
11 Q -- for anything?
12 A No.
13 Q You didn't look at documents anywhere else?
14 A No.
15 Q You said that the building permits and
16 applications are kept by Van Dommelen, correct?
17 A Right.
18 Q Are there any other documents that are
19 maintained outside the township office relating to township
20 business?
21 A The sewage documents, Barry keeps them till
22 he's done with -- till he has completed the project and then
23 he sends them into the township.
24 Q That's Barry Parks?
25 A Barry Parks. And also DEP keeps them and then

20

1 sends them back. They might keep them for three or four
2 years and then they send them back, but I didn't talk to
3 either one of them.
4 Q So you didn't ask Barry Parks what documents
5 he has in connection with --
6 A No, I did not.
7 Q Is there any reason why you didn't ask Barry
8 Parks for his documents?
9 A I didn't know I was supposed to do that.
10 Q Any other documents that are maintained
11 outside the township office?
12 A I can't think of any.
13 Q Well, if you think of any, please feel free to
14 tell me during the course of this deposition, or tell your
15 counsel and he can tell me later if you don't think of it
16 during the course of the deposition, okay?
17 A Okay.
18 Q Now, going back to the documents that you did
19 produce, you said all the documents are kept in one file, in
20 one file cabinet that's three or four drawers?
21 A No, we have two file cabinets.
22 Q Is that it? Is there any other, you know,
23 sort of nooks and crannies or storage buildings on township
24 property that --
25 A Oh, yeah, we have old documents. Are you

21

1 talking current or ancient documents?
2 Q Really I'm just trying to get a general
3 picture of your document retention.
4 A Current items are in the office. Old items
5 are in the township building. And I honestly cannot tell
6 you what's there and I don't go there because there's snakes
7 in there and I don't go there. I can tell you that. I
8 won't go there.
9 Q What do you mean by current documents?
10 A Well, things that -- I've been on for six
11 years. Everything since I've been on is in my office.
12 Q Is it in those two file cabinets you referred
13 to?
14 A Yes, and then in an extra storage box.
15 Q And that storage box is where?
16 A In my office.
17 Q Did you look in that storage box in connection
18 with this document request?
19 A No, because those things were before I was on
20 the -- on -- they weren't involving this time frame.
21 Q So they are documents prior to --
22 A 1996.
23 Q So that's the storage box and what else?
24 A That's it.
25 Q No attic or anything like that?

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| | |
|--|--|
| <p style="text-align: right;">22</p> <p>1 A No.</p> <p>2 Q Let's talk a little bit about you and your</p> <p>3 background. Where do you live?</p> <p>4 A I live on Scare Pond Road.</p> <p>5 Q And where is that?</p> <p>6 A Petersburg, R.D. 1.</p> <p>7 Q Is that -- how do you spell that, Scare Pond?</p> <p>8 A S-c-a-r-e, P-o-n-d.</p> <p>9 Q And that's within Jackson Township?</p> <p>10 A Yes.</p> <p>11 Q Tell me a little bit about your educational</p> <p>12 background.</p> <p>13 A I have -- I graduated from high school, of</p> <p>14 course, and I have college classes in tax and accounting and</p> <p>15 business law and numerous other advanced education, but I</p> <p>16 don't have a degree.</p> <p>17 Q Talk to me a little bit about your advanced</p> <p>18 education, what -- go into some detail.</p> <p>19 A Mostly in computers, because that's what I do,</p> <p>20 and in income tax preparation, that sort of thing. I go to</p> <p>21 tax class at Penn State most every year and I do that.</p> <p>22 Q Do you hold any certificates or licenses or</p> <p>23 anything like that?</p> <p>24 A No.</p> <p>25 Q When did you start your post high school</p> | <p style="text-align: right;">24</p> <p>1 A The township does.</p> <p>2 Q And PSATS puts on that training?</p> <p>3 A They're doing it now, yes. And DEP does it,</p> <p>4 Department of Transportation does it.</p> <p>5 Q And what does that training consist of</p> <p>6 exactly, what do they show you?</p> <p>7 A Well, like right now is -- they're doing a lot</p> <p>8 of computerization because this is a dinosaur thing they</p> <p>9 have for the townships. And they're doing a lot of training</p> <p>10 for the liquid fuel forms and all those things. They're</p> <p>11 training us to use their new computer systems and --</p> <p>12 bidding. I do all the bidding and that sort of thing. So</p> <p>13 all the latest things we do.</p> <p>14 Q You said that what you do is computerization.</p> <p>15 What did you mean by that?</p> <p>16 A Well, I -- I go around and set different small</p> <p>17 businesses up with their accounting systems and that sort of</p> <p>18 thing.</p> <p>19 Q In connection with your work as a township --</p> <p>20 A Oh, no.</p> <p>21 Q -- supervisor secretary?</p> <p>22 A No, I earn a living. I don't earn a living</p> <p>23 doing township -- no, I'm not -- I shouldn't be funny about</p> <p>24 this, but that's what I do for a living.</p> <p>25 Q Oh, I see. So you have separate employment?</p> |
| <p style="text-align: right;">23</p> <p>1 education?</p> <p>2 A In probably 1960. I've been doing this all</p> <p>3 this time so ...</p> <p>4 Q Taking business classes?</p> <p>5 A Business classes and computer classes when we</p> <p>6 started with computers and I've been taking income tax</p> <p>7 classes since I started doing that in 1974.</p> <p>8 Q What is your exact title at the township?</p> <p>9 A I'm secretary/treasurer.</p> <p>10 Q Secretary/treasurer. Is there any training</p> <p>11 for performing that particular function?</p> <p>12 A Oh, yes.</p> <p>13 Q And what is that?</p> <p>14 A Well, we go -- every year they have classes</p> <p>15 that they get you to attend for -- it's not only secretarial</p> <p>16 duties or treasurer duties, it's everything. They -- we go</p> <p>17 to convention to do this. We go everywhere to do --</p> <p>18 wherever they -- it's called one-step education classes</p> <p>19 through PSATS. So every year -- I even went to</p> <p>20 Shippensburg. They -- we go different places to do what</p> <p>21 we --</p> <p>22 Q What is PSATS?</p> <p>23 A Pennsylvania Association of Township</p> <p>24 Supervisors.</p> <p>25 Q So they send you to training and --</p> | <p style="text-align: right;">25</p> <p>1 A Oh, yeah.</p> <p>2 Q We'll get to that in a minute.</p> <p>3 A Okay.</p> <p>4 Q Just tell me a little bit about your duties as</p> <p>5 the township secretary.</p> <p>6 A Well, I take minutes at the meeting, I do</p> <p>7 do that, but I take care of all the financial end of it. I</p> <p>8 make sure that we have all the grants that we're entitled</p> <p>9 to. I fill in all the forms to get us the money. We're a</p> <p>10 poor township, we only have 900 people, and there's a lot of</p> <p>11 paperwork involved in --</p> <p>12 (Interruption.)</p> <p>13 MS. MONTGOMERY: Excuse me one second. I'll</p> <p>14 be right with you.</p> <p>15 (Break taken.)</p> <p>16 MS. MONTGOMERY: Now, where were we? What was</p> <p>17 the last question.</p> <p>18 (Question and answer read.)</p> <p>19 THE WITNESS: There's a lot of paperwork</p> <p>20 involved in just getting the funding for what we need to do</p> <p>21 in the township. And we have -- we're audited three times a</p> <p>22 year so we're constantly under audit. I just -- I take care</p> <p>23 of all that. That's what I do.</p> <p>24 BY MS. MONTGOMERY:</p> <p>25 Q How much time say per week do you put into it?</p> |

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1 A I honestly don't know. I cannot tell you how
2 many -- because I work that in with my job and anything that
3 needs to be done I do and I honestly cannot tell you how
4 many hours. Some weeks it's a lot, some months it's a lot,
5 like January, February, March is really bad, and then at
6 audit time it's really bad but ...
7 Q Why are -- January, February and March for tax
8 season?
9 A Because -- well, no, not for the township.
10 The township, that's when you fill in all your forms for
11 your funding, like your liquid fuels. And we have all --
12 every agency and everything we deal with we have forms we
13 have to fill in with the supervisor's information and all
14 that and it's -- and if you don't do that, then we don't get
15 our liquid fuels money. So we have those -- those months
16 we're really busy.
17 Q Do you do all of that work from the township
18 office or do you do some of it at home?
19 A The township does not have an office. They
20 use my office for their office. I allow them to put their
21 stuff in my office and that's where it happens.
22 Q Your office where?
23 A On Scare Pond Road.
24 Q Your office at home then you mean?
25 A I have a separate building that is my office.

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1 Q That you use in connection with your other
2 employment?
3 A Yes.
4 Q So the township office is your office
5 essentially?
6 A Um-hum.
7 Q Having said that, do you perform any of the
8 work from inside your home?
9 A At my house -- my --
10 Q Yes.
11 A My office building is here and my house is
12 over there. There's nothing together. Everything is in the
13 building. There's nothing in my house, other than phone
14 calls, you know, that sort of thing. I don't have anything
15 at the house.
16 Q Do you keep a record of phone logs? Do you
17 keep a phone log of like phone calls you receive --
18 A No.
19 Q -- in connection with township business?
20 A No, they have their own line.
21 Q That rings in your office?
22 A Um-hum.
23 MR. SHERR: You have to say yes or no. You
24 can't --
25 THE WITNESS: I'm sorry, yes. It rings in my

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1 office.
2 BY MS. MONTGOMERY:
3 Q So if somebody calls on township business, how
4 do you keep a record of the fact that somebody has called on
5 township business?
6 A I don't.
7 Q You don't, you just keep it in your head?
8 A I don't get enough phone calls for the
9 township that I need to keep records or anything. It's --
10 if somebody calls me, I answer the phone and say Jackson
11 Township and do what I -- you know, do what I have to do,
12 but we don't -- we don't get a lot of phone calls.
13 Q Do you take messages for the supervisors in
14 connection with --
15 A No, I tell them -- I give them their phone
16 number and they call them.
17 Q So you don't have any kind of old phone
18 messages or --
19 A No.
20 Q -- a book of --
21 A I don't do that.
22 Q Let me finish my question.
23 A I'm sorry.
24 Q That's all right. Thank you. So as the
25 secretary you just sort of weave it into your other work,

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1 your other employment as it needs to be done for the
2 township?
3 A Yes.
4 Q You attend all the township's meetings?
5 A I've only missed one in the six years I've
6 been on.
7 Q And when was that, the one that you missed?
8 A I think it was two years ago in February I was
9 really ill and I did not go.
10 Q And the meetings are held in your office as
11 well?
12 A No.
13 Q Where --
14 A The meetings are held -- I'm sorry. The
15 meetings are held at the fire company building in McAlevys
16 Fort.
17 Q Is there a telephone in that building?
18 A Yes.
19 Q Is there any answering of messages or, you
20 know, answering of the telephone on behalf of the township
21 that occurs in that building?
22 A No.
23 Q Do you know whether the supervisors have their
24 own individual offices anywhere?
25 A No, they don't.

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1 Q Do they have anybody else who answers the
2 phone or takes messages or handles any township business in
3 any way on behalf of them?
4 A No.
5 Q Typically at a township meeting -- is there a
6 monthly meeting of the township supervisors?
7 A Yes.
8 Q And then there are special meetings from time
9 to time, correct?
10 A Once in a while, like when we do the ordinance
11 or something, but not very often.
12 Q Who would be present at the township meetings?
13 A The supervisors and myself.
14 Q Are they open to the public?
15 A Oh, always. They have to be by law.
16 Q Do you advertise --
17 A Yes.
18 Q -- all of the township meetings?
19 A We have to, that's the law.
20 Q Every month?
21 A We are required once a year to put it in the
22 paper in the beginning of January that our regular monthly
23 meeting will be the first Monday of every month. And then
24 if we change that, we have to run another ad, or if we --
25 excuse me. If we have a special meeting, that has to be

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1 When we bid for -- if we have an emergency that we are going
2 to bid for roadwork or something that we're doing a special
3 meeting for, there will be an ad in the paper. Even if we
4 are doing our bidding at a regular meeting, there still will
5 be an ad in the paper listing what we're bidding for and
6 when that meeting is and whatever. It's always in the Daily
7 News.
8 Q So in the notice of a special meeting do you
9 put anything about what the meeting is going to be about?
10 A Yes.
11 Q You describe what exactly the supervisors are
12 trying to accomplish?
13 A We're bidding on stones or whatever.
14 Q So you told me what you do in connection with
15 your duties as secretary for Jackson Township. Is there
16 anything else you want to add to that?
17 A I don't know what it would be.
18 Q How frequent is your contact with the
19 supervisors of Jackson Township?
20 A I -- I talk to Mr. Weiler on a daily basis,
21 only because of his health and he's alone with his sister,
22 but I don't know. It's a small community. We see one
23 another and we run into one another. I don't know how often
24 I talk to them.
25 Q Is there something additional to add to your

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1 advertised.
2 Q Where do you advertise?
3 A In the Daily News in Huntingdon.
4 Q The Huntingdon Daily News it's called?
5 A Um-hum.
6 Q Is there a particular amount of notice that
7 you have to give?
8 A We're supposed to give 24 hours.
9 Q Twenty-four hours notice for special meetings?
10 A Yes.
11 Q And what else are you supposed to do in
12 connection with those notices?
13 A Just exactly what I said, we put it in once a
14 year and I -- oh, I post it on the door. They have a
15 Plexiglas for me on the door of the fire company and I have
16 it -- it's posted there when our monthly meeting is. And if
17 there's a special meeting, I go down and hang it on the
18 door.
19 Q What about the content of the notices?
20 A They're just -- we just have to notify them of
21 a meeting if there is -- and if it's -- I'm sorry.
22 Q If it's a special meeting, do you have to tell
23 them anything else?
24 A Like if it's an ordinance or we're building or
25 something, it's in the paper, we advertise it in the paper.

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1 duties for the township that arises out of your role as the
2 treasurer for the township?
3 A I keep track of the books. I have that
4 computerized. I do that. I pay all the bills.
5 Q Anything else?
6 A I move the money around in the bank if we need
7 to do that. I change all the signatures on the bank
8 accounts. I --
9 Q Do you write checks?
10 A Oh, yes, but I don't -- yes, I do.
11 Q Do you sign the checks?
12 A Yes, there's two signatures required.
13 Q Yours and one of the supervisors?
14 A Yes.
15 Q Anything else that you do as -- in connection
16 with your role as the treasurer for the township?
17 A Deposit all the money. I -- and write checks
18 is basically what I do for --
19 Q Do you participate in -- just in general in
20 your role in the township, do you participate in substantive
21 conversations about what the township should do or can do
22 or --
23 A I do do that.
24 Q Do you do that at the monthly meetings or just
25 on a day-to-day basis or what?

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1 A Wherever it needs to -- wherever it comes up.
2 If there's something -- I will get a lot of things in the
3 mail that needs to go to the supervisors or, you know, I may
4 have researched things for them.
5 Q Do you deal directly with the public yourself?
6 A Sometimes.
7 Q So they come out to your office?
8 A No.
9 Q They just call you on the telephone?
10 A Sometimes.
11 Q To ask you questions about what they need to
12 do to do this or do that?
13 A Sometimes they do that.
14 Q Do you vote at all in connection with township
15 business?
16 A No, I don't have a vote.
17 Q Do you have an informal vote?
18 A No.
19 Q Do the township supervisors seek your advice
20 on how to do things for the township?
21 A They might ask me to research things.
22 Q How do you keep the minutes?
23 A They're in a binder.
24 Q So you keep --
25 A It's not really a binder. It's a big book and

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1 A No.
2 Q So you would have nothing on your -- this is
3 -- your e-mail is on your personal computer then --
4 A Yes.
5 Q -- for your other business?
6 A Um-hum.
7 Q So there is nothing on that computer that in
8 any way relates to township business?
9 A No.
10 Q You never use that computer to keep minutes
11 like, for example, if the other computer is not working or
12 something?
13 A No, we do not. We've only had the township
14 computer for two -- for -- I think it's two -- maybe a year,
15 year and a half. And before that I did, but I -- I have two
16 new computers and I don't put the township on mine at all.
17 Q But before you got the township computers a
18 year and a half ago, you did some township business on your
19 own computer?
20 A Yes, I did.
21 Q Did you look on your own computer to see
22 whether there was anything on there that might in any way
23 relate to this lawsuit or the matters under consideration in
24 this lawsuit?
25 A I would have trouble doing that since I don't

35

1 you have to staple them in there. It has to be in this
2 book.
3 Q And you also keep them on the computer?
4 A I print them off of there and put them -- I
5 have to seal them and put them on -- in the book, yeah.
6 Q You have a word processing system?
7 A Yes.
8 Q What word processing system do you have?
9 A We do Microsoft Word and then we also have
10 Excel, which is part of that, and Works. We have Works.
11 Q What do you use Works for?
12 A I use them both for -- I might have -- Word is
13 connected to the reports that we do for PennDOT with Excel
14 and I use -- that's mainly for the bidding. There's bidding
15 forms where we bid for stones and blacktop, and whatever
16 we're doing, and snow plowing and that sort of thing.
17 That's done in Word. And Works I do my minutes in and
18 things.
19 Q Do you use e-mail at all in connection with
20 your township work?
21 A The township is not on the Internet.
22 Q Are you on the Internet?
23 A Oh, yes.
24 Q Do you use your own e-mail in connection with
25 township business at all?

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1 have that anymore. I don't have it anymore.
2 Q You don't have that computer anymore?
3 A No, and I cleared everything off of there and
4 gave it to my grandson.
5 Q You gave the computer to your grandson and got
6 a new computer?
7 A Yes.
8 Q Did you backup the information that was on
9 your old computer?
10 A Oh, yeah.
11 Q So did you look on your backup information to
12 see whether there was anything related to the Corneals,
13 their property or anything that has to do with this lawsuit?
14 A No, I did not because the only thing that
15 would have been on there would have been the minutes and the
16 books.
17 Q Well, let's see, Mr. Corneal first started his
18 interaction with the township back in 1999, correct, in
19 connection with this property?
20 A I don't know when he started.
21 Q But if he did start in connection with this
22 property in 1999, it's possible that you would have some
23 information on your old computer, correct?
24 A I wouldn't have anything in '99 for Mr.
25 Corneal.

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1 Q Why is that?
 2 A **Because I didn't have anything to do -- I**
 3 **didn't even know about Mr. Corneal till January 2000.**
 4 Q Do you keep any kind of a log of township
 5 activities, you know, some sort of an organizational chart
 6 at all?
 7 A **No, I do not.**
 8 Q Do you keep a calendar?
 9 A **For the township?**
 10 Q Yes.
 11 A **No.**
 12 Q You don't?
 13 A **No.**
 14 Q Does anybody keep a calendar for the township?
 15 A **I don't know. You'll have to -- I don't know.**
 16 Q Have you ever held any other positions with
 17 Jackson Township besides your secretarial and treasurer
 18 positions?
 19 A **Yes, we had a supervisor quit and I was**
 20 **appointed supervisor till we had a special election.**
 21 Q And when was that?
 22 A **Oh, I don't know whether that was '98 or -- I**
 23 **think it was in 1998. I'm not sure. It was just a short**
 24 **period of time. A man quit and then we had an election. It**
 25 **was just a couple months.**

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1 Q It was a couple months and you were appointed
 2 to fill in as township supervisor --
 3 A **Yes.**
 4 Q -- for a period of time? How long have you
 5 been the secretary for the township?
 6 A **Since 1996.**
 7 Q How long have you been the treasurer for the
 8 township?
 9 A **Since 1996.**
 10 Q And how did you go about obtaining that
 11 position?
 12 A **They put an ad in the paper and I gave them a**
 13 **resume.**
 14 Q Are you related to any of the supervisors?
 15 A **No.**
 16 Q Are the minutes for the township meetings
 17 publicly available?
 18 A **Oh, yes.**
 19 Q So I could go in and look at the book of
 20 minutes?
 21 A **Sure.**
 22 Q Anybody could go in and look at the book of
 23 minutes, correct?
 24 A **Yes.**
 25 Q Who do you report to?

40

1 A **The three supervisors.**
 2 Q There are three supervisors?
 3 A **Right.**
 4 Q And you report to them informally or formally
 5 or just at the monthly meetings or what?
 6 A **I don't know what you're asking me.**
 7 Q I guess I'm really asking you for a complete
 8 picture of how you report township business to the
 9 supervisors. Do you save it all for the monthly meetings,
 10 do you just call them from time to time to report to them?
 11 A **I call them from time to time to report to**
 12 **them.**
 13 Q They're your bosses, right?
 14 A **Yes.**
 15 Q They're the ones who hired you?
 16 A **Yes.**
 17 Q So you have to report to them on any township
 18 business that comes up?
 19 A **That's right.**
 20 Q So you just call them from time to time?
 21 A **Yes.**
 22 Q Do you know whether they keep any minutes or
 23 records of your telephone calls to them?
 24 A **I don't know.**
 25 Q So if something comes up between say the first

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1 monthly -- you know, the monthly meeting in January and the
 2 monthly meeting in February and say four or five different
 3 things come up, how do you keep a list of what's come up? I
 4 mean, how do you keep all that organized?
 5 A **When I open the mail and there's something**
 6 **that has to be taken care of with the supervisors, I**
 7 **normally copy it, if it's something they need to read or**
 8 **whatever, prepare for, or -- and I have a file that I have**
 9 **ready for the meeting. I put my copy in the folder and then**
 10 **I give them their copies along the way so they're prepared**
 11 **before the meeting. And so I don't lose it I do that**
 12 **because it's -- it's -- there's a lot of paperwork involved**
 13 **here and I do that for that reason.**
 14 Q Do you prepare agendas for the monthly
 15 meetings?
 16 A **Yes, I do. I have it on the computer.**
 17 Q You have the agendas on the computer as well?
 18 A **I have an agenda and when I -- each meeting I**
 19 **change it. I just go in and change it and-- it's saved**
 20 **under agenda and I just change it for that meeting.**
 21 Q Do you save copies of the old agendas?
 22 A **Probably not.**
 23 Q Does anybody save copies of the old agendas?
 24 A **I don't know.**
 25 Q You don't save the agenda on the meeting from

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1 month to month?
2 A No.
3 Q The agenda on each monthly meeting you just go
4 in and replace --
5 A Yes.
6 Q -- and you copy over?
7 A Yeah, that's what I do.
8 Q So you have a form, basically a computerized
9 form --
10 A Yeah, that's what I do.
11 Q Tell me about your other employment.
12 A I do income tax preparation and set up
13 computers.
14 Q Are you self-employed?
15 A Yes.
16 Q Does your company have a name?
17 A Ann's Accounting.
18 Q Ann's Accounting?
19 A Um-hum.
20 Q And you set up computers. When you say you
21 set up computers, what do you mean by that?
22 A I load software on people's computers for
23 accounting and word processing packets and that sort of
24 thing, to show them how to run it, show them what to do with
25 their payroll, keep them updated. That's what I do.

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1 Q So you just consult -- basically have a
2 consulting -- computer consulting business?
3 A And I do in-house payrolls and that sort of
4 thing, quarterlies.
5 Q And you prepare tax forms as well?
6 A Yes.
7 Q Now, you said you were briefly a supervisor
8 for the township. Have you ever held any other position
9 with Jackson Township?
10 A No.
11 Q Do you take notes at the meetings besides the
12 minutes that you actually type up? Do you have handwritten
13 notes that you keep somewhere?
14 A No. Once I type it up, I throw it out.
15 Q Discard them, okay. Do you keep a record of
16 people in attendance at the meeting other than in the
17 minutes?
18 A I do now.
19 Q A different record?
20 A Yes.
21 Q And what does that consist of?
22 A I pass a paper around the room and have
23 everybody sign it now, who is there.
24 Q And you keep that where?
25 A With the minutes.

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1 Q You keep it with the minutes?
2 A Yes. I've been doing that maybe for -- I
3 don't know, three, four months.
4 Q You talked about opening township mail, right?
5 A Yes.
6 Q Is that delivered to your home or to a post
7 office box?
8 A We have a separate mailbox for the township.
9 Q On your property?
10 A Yes.
11 Q So you keep copies of all the mail received?
12 A It depends on what it is. If it's something
13 that I'm not going to do anything with, it's just
14 information for the supervisors from PSATS or something like
15 that, I -- I don't necessarily keep it.
16 Q But you do keep some of the mail received,
17 copies?
18 A If it's something that I have to deal with.
19 Q And you keep that in those files?
20 A Um-hum.
21 Q The metal file cabinets that you have?
22 A Yes.
23 Q I think you said a moment ago that you don't
24 really know what the building permit applications look like
25 and you don't -- you're not sure how big they are and all

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1 that?
2 A I don't.
3 Q Now, in connection with your work with the
4 township, how many ordinances has the township passed in
5 your -- in the history of your work with the township?
6 A Three.
7 Q And what were they?
8 A The land development and subdivision
9 ordinance, privy ordinance and a driveway ordinance.
10 Q When did they pass the land division and
11 subdivision ordinance?
12 A July the 10th in 2000.
13 Q July the 10th, 2000?
14 A Um-hum.
15 Q Was the meeting for that ordinance -- or for a
16 consideration of that ordinance advertised?
17 A Oh, yes.
18 Q Where was it advertised?
19 A The Daily News.
20 Q Did the advertisement state that it would be
21 on July the 10th?
22 A Oh, yes.
23 Q Did the advertisement state what was going to
24 be considered at the meeting?
25 A Oh, yes.

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| <p style="text-align: right;">46</p> <p>1 Q Do you have a copy of the advertisement that 2 stated when the -- 3 A I'm not sure I did that. I think maybe Larry 4 Newton did that, but I'm not sure. I can't -- I don't know. 5 Q Does Larry Newton sometimes do the 6 advertisements? 7 A Only for items like that. 8 Q Let's talk about the advertisements for a 9 second. I think you stated a while ago that you usually do 10 the advertisements, right? You do them in the Daily -- 11 A Daily News. 12 Q The Daily News in Huntingdon, correct? 13 A Yes. 14 Q So you would take care of the advertisements 15 at the beginning of the year listing when the monthly 16 meetings of the township were going to be held? 17 A Right. 18 Q Any other advertisements that you routinely 19 deal with? 20 A Yes, for bidding. 21 Q Anything else? 22 A No -- special meetings, if we called a special 23 meeting. 24 Q Sometimes do you do the advertising for 25 special meetings held to consider ordinances?</p> | <p style="text-align: right;">48</p> <p>1 A I think that's what -- it's on the back of the 2 ordinance. 3 Q So the ordinance was actually passed at the 4 meeting? 5 A Right. 6 Q So the date of the ordinance -- the date of 7 its passage is the date of the meeting, correct? 8 A Yes. 9 Q Did you notice when you did your search for 10 documents whether you had any documents in there indicating 11 -- showing advertisements for meetings sent to the 12 newspaper, faxes for advertisements for meetings sent to the 13 newspaper? 14 A I -- 15 Q Do you have a special file for that? 16 A I file them with the documents that we're 17 doing. I don't have a file for advertisement. I -- because 18 we do our bidding and that sort of thing, I -- and the 19 auditors look at our bidding, I have to have that in the 20 files for those items so it's got to be there. 21 Q Miss Wirth, I'm going to show you a document 22 that was faxed to us by your counsel last Friday and we're 23 going to mark it as Wirth Exhibit 1. And I'd ask you to 24 look at it and see whether you can identify that document 25 for me, just familiarize yourself with it for a second.</p> |
| <p style="text-align: right;">47</p> <p>1 A I honestly don't know whether I did that or 2 not. I normally do most of the advertising, but that was a 3 special -- so I don't -- I honestly don't know if I did it 4 or he did it. 5 Q Well, what's involved when you do? Do you 6 just call -- 7 A No. 8 Q -- the Daily News? What do you do? 9 A No, you have to type something up and fax it 10 into them and they put it in the paper. 11 Q Do you keep a record of having typed something 12 up and faxing it into them whenever you do an advertisement? 13 A Oh, yeah, I have that. 14 Q Let me think about this for a second. So in 15 some situations -- well, you said you passed three 16 ordinances -- or the township supervisors have passed three 17 ordinances since you've been working for the township, 18 correct? 19 A Right. 20 Q Do you know whether you did the advertising 21 for any one of those three ordinances? 22 A They were all at the same time. 23 Q They were all done at the same meeting? 24 A Um-hum. 25 Q Which you said was July 10th, 2000?</p> | <p style="text-align: right;">49</p> <p>1 (Notice produced and marked as Wirth Exhibit 2 No. 1.) 3 BY MS. MONTGOMERY: 4 Q Do you recognize that advertisement? 5 A Yes, I do. 6 Q So I guess I'm a little bit confused because 7 this is a regular monthly meeting and you had said earlier 8 that at the beginning of the year you just do an 9 advertisement that says this is when the monthly meetings 10 are going to be held, but then this is a separate 11 advertisement, correct -- I'm sorry, you just nodded your 12 head. 13 A No, I'm -- I wasn't answering you. 14 Q Well, is that correct, that you said that at 15 the beginning of the year you do an advertisement that says 16 this is when the regular monthly meetings are going to be 17 held, correct? 18 A I did say that, and I also said that we -- if 19 we're having any other meetings or any changes we have to do 20 it 24-hour notice for these meetings and that's what this 21 was. 22 Q Was this a change of the regular monthly 23 meeting? 24 A Yes, because I think the regular monthly 25 meeting then would have been on the 4th of -- that would</p> |

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| <p style="text-align: right;">50</p> <p>1 have been on the 4th of July, all right, so we changed our 2 regular monthly meeting because we were going to enact the 3 ordinance. 4 Q So you had a monthly meeting on July 10th 5 then? 6 A Yes. 7 Q So you enacted the ordinance at the regular 8 monthly meeting? 9 A We did do that. 10 Q Which was held on July 10th? 11 A That's right. 12 Q Now that you look at this, do you recall that 13 you're the one who put the advertisement in? 14 A I did this advertisement. I didn't do the 15 ordinance advertisement. 16 Q Was there a separate ordinance advertisement? 17 A Well, yeah, it's right beside it. 18 Q Let me see that. Okay. So you say you didn't 19 -- oh, Larry Newton did that one. I see that at the 20 bottom, okay. I'm going to show you another document that 21 is marked as -- we're going to mark it as Wirth Exhibit 2. 22 (Subdivision and land development ordinance 23 Jackson Township produced and marked as Wirth Exhibit 24 No. 2.) 25 BY MS. MONTGOMERY:</p> | <p style="text-align: right;">52</p> <p>1 this. That's -- and it's documented in the minutes that it 2 was done. I probably -- I don't know why that says the 7th. 3 Q Did you have a meeting -- like a separate 4 meeting at all on July 7th? 5 A Oh, no, no. 6 Q Did you -- 7 A What day of the week is that? No, no, that 8 was just probably me. 9 Q Was this signed at the regular monthly 10 meeting? 11 A Yes, it was and -- because I took it to get 12 copied right away and I -- I did that. I'm sure I probably 13 wrote that there that night. 14 Q Who was present at that monthly meeting? 15 A All the supervisors were there. 16 Q Who else? 17 A Myself. 18 Q Anybody else? 19 A I don't remember. 20 Q You don't recall whether there was a member of 21 the public present? 22 A I'm sure there were. There's usually regular 23 people there, but I -- I don't -- I don't know for sure if 24 they were there that night. I think they were. 25 Q Did you provide us with the minutes of this</p> |
| <p style="text-align: right;">51</p> <p>1 Q Do you know when this advertisement appeared 2 -- going back to Exhibit 1 for a second, do you know when 3 this advertisement appeared in the Daily News? Do you know 4 what date? 5 A I don't -- I can't tell from here, no. Off 6 the top of my head I don't know. 7 Q You don't recall? 8 A No. 9 Q I'm going to give you a copy of this document 10 and ask you if you can identify it for the record. 11 A This is the subdivision ordinance and land 12 development. 13 MS. MONTGOMERY: Let the record reflect that 14 Michele Thorp just entered the room. 15 BY MS. MONTGOMERY: 16 Q Is this the subdivision -- 17 A Yes. 18 Q -- ordinance that was passed by Jackson 19 Township, correct? 20 A Yes. This thing says the 7th. 21 Q We're going to direct your attention to 22 page 71 of the document. Was this ordinance passed before 23 the meeting? 24 A No. I probably -- I probably wrote the wrong 25 date on there because I know it was passed the night of</p> | <p style="text-align: right;">53</p> <p>1 monthly meeting? 2 A Yes. 3 Q You provided your counsel with the minutes of 4 the monthly meeting, correct? 5 A Yes, I did. 6 Q Was Larry Newton present at this monthly 7 meeting when this ordinance was passed? 8 A No. 9 Q Can you remember -- this was July 2000. So 10 can you remember -- 11 A I don't know why I did that. I really don't. 12 I just wrote the 7th and it was -- but it was done at the 13 meeting and I -- you know. 14 Q Were all three supervisors present at the 15 meeting? 16 A Yes. 17 Q Can you recall roughly how many people were 18 present at the meeting? 19 A We might -- there might be three or four 20 people, that's all we ever have. 21 Q Was there any other notice of the meeting 22 published anywhere else? 23 A I hung something on the door which I -- I'm 24 obligated to do by the Sunshine Law and I put it in the 25 paper.</p> |

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1 Q When did you hang the notice on the door?
2 A When I typed this thing -- my routine is when
3 I type this and send it into the paper, I take it down and
4 hang it on the door, and that's what I do as my routine.
5 Q Do you save copies of those notices that you
6 hang on the door?
7 A It's this. Yeah, it's just the paper that I
8 fax over, the same thing, you know.
9 Q Do you save a copy of that?
10 A I probably have that.
11 Q Did you provide that to your counsel in
12 connection with this request for production of documents?
13 A Probably not.
14 Q Why not?
15 A I don't know that I was -- I don't believe I
16 was asked for that, was I? I don't know.
17 MR. SHERR: Just answer --
18 THE WITNESS: It's here. It's the same thing.
19 BY MS. MONTGOMERY:
20 Q It's in the newspaper, right, but you have a
21 separate notice that you hang on the door, right? Is it a
22 full size notice?
23 A That's just -- what's right there on a piece
24 of paper I hang on the door.
25 Q What about the more lengthy notice that Larry

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1 Newton put in the paper on the ordinances that were going to
2 be considered at the meeting? Do you know whether that more
3 lengthy notice was put in at any other time in any other
4 newspaper or in the same newspaper?
5 A You'll have to ask Larry that. I don't know.
6 Q Tell me again why did you publish this one,
7 because it was going to be held on a different date?
8 A Right, it's not the first Monday of the month.
9 Q Okay, because the first Monday of the month
10 would have been July 3rd?
11 A Or July -- July 3rd. We did not -- it was
12 Labor Day -- it was 4th of July weekend and we changed it to
13 the 10th and we don't normally do that but we ...
14 Q Would your records reflect when you sent this
15 notice into the newspaper?
16 A I might be able to see the date on the fax
17 copy if I still have it.
18 Q Would you please provide that to your counsel
19 so that it can be provided to me?
20 A I will try.
21 Q Whatever you have in connection with the
22 advertisement of this meeting in any way, shape or form.
23 What time did the meeting take place? What time did this
24 meeting take place?
25 A Seven o'clock.

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1 Q It started as scheduled as shown here in the
2 paper?
3 A Yes, I would say it did.
4 Q Do you remember how long it lasted?
5 A No, I do not.
6 Q Was there any discussion on the ordinances?
7 A I don't remember what we discussed. I don't.
8 Q Other than ordinances were there other things
9 that the township supervisors pass, you know, sort of laws,
10 bylaws, whatever, that the township supervisors pass?
11 A Like what?
12 Q Resolutions, that sort of thing.
13 A Yes, we have to do resolutions.
14 Q Tell me about that. What kind of resolutions
15 do you have to do?
16 A We do resolutions to belong to the Juniata
17 Watershed. We do resolutions when we make changes at the
18 bank, when we change the supervisors. We did a lot of
19 resolutions when we had the flood.
20 Q Did you pass any resolutions recently?
21 A Yeah, the Juniata Watershed Resolution.
22 Q When was that?
23 A Not this month, last month.
24 Q Was there any discussion on that resolution?
25 A Oh, yeah. Yes.

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1 Q Was it well attended by the public, that
2 meeting?
3 A We might have had four people.
4 Q And the public discussed this resolution, do
5 you recall?
6 A I don't recall that they did.
7 Q But you said there was discussion on the
8 resolution?
9 A For the supervisors, I was talking about.
10 Q Among the supervisors. What other resolutions
11 have been passed say in the last year?
12 A That was the first resolution, I believe, for
13 the year.
14 Q For the year 2001?
15 A Yes.
16 Q What about in the year 2000?
17 A I honestly can't remember that we did anything
18 other than the Juniata Watershed and -- I can't remember.
19 Q So you don't recall any resolutions being
20 passed in the year 2000, correct?
21 A I'm sorry, I -- if we did, I don't know. It
22 wouldn't be -- we don't do them -- we don't do -- it's not a
23 routine that we do, other than bank changes and that sort of
24 thing.
25 Q Do you keep records of your resolutions?

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| <p style="text-align: right;">58</p> <p>1 A Oh, yeah.</p> <p>2 Q Did you look at the resolutions in connection</p> <p>3 with searching for documents for this lawsuit?</p> <p>4 A I don't think that was part of the request.</p> <p>5 Q Well, did you look?</p> <p>6 A No.</p> <p>7 Q So you didn't review any of the resolutions to</p> <p>8 see whether they might be related in any way to the matters</p> <p>9 in this lawsuit?</p> <p>10 A No.</p> <p>11 Q Any other resolution like documents that are</p> <p>12 passed by the township? We've covered resolutions, we've</p> <p>13 covered ordinances, anything else?</p> <p>14 A No.</p> <p>15 Q Nothing else you can think of? Take your</p> <p>16 time.</p> <p>17 MR. SHERR: I'm going to object to the form of</p> <p>18 the question. It's been asked and answered. She's given</p> <p>19 her answer. You can answer again.</p> <p>20 THE WITNESS: No.</p> <p>21 BY MS. MONTGOMERY:</p> <p>22 Q Okay, thank you. Well, let's talk a little</p> <p>23 bit more about the ordinances that were passed. Do you</p> <p>24 recall when the issue of the subdivision and land</p> <p>25 development ordinance was first raised within the township</p> | <p style="text-align: right;">60</p> <p>1 regular monthly meetings?</p> <p>2 A Only if there was activity, you know, going</p> <p>3 on.</p> <p>4 Q What about -- you say there were two other</p> <p>5 ordinances, a driveway ordinance, correct?</p> <p>6 A Yes.</p> <p>7 Q And a privy ordinance?</p> <p>8 A Right.</p> <p>9 Q All passed on July 7th, according to the</p> <p>10 subdivision and land development ordinance --</p> <p>11 A Yes.</p> <p>12 Q -- right?</p> <p>13 A Yes.</p> <p>14 Q Did you provide us with copies of the highway</p> <p>15 and -- I mean the driveway and privy ordinances?</p> <p>16 A I think they're in the back of -- probably</p> <p>17 not.</p> <p>18 Q Whose idea was it initially to pass a</p> <p>19 subdivision and land development ordinance?</p> <p>20 A I don't know.</p> <p>21 Q You don't recall who first raised the issue?</p> <p>22 A No.</p> <p>23 Q Do you recall how it was raised?</p> <p>24 A No, I don't.</p> <p>25 Q Well, you said that it was discussed on a</p> |
| <p style="text-align: right;">59</p> <p>1 -- among the township supervisors, I should say?</p> <p>2 A Probably between '97 and '98.</p> <p>3 Q Who raised it?</p> <p>4 A I don't know.</p> <p>5 Q Why do you think it was first raised between</p> <p>6 '97 and '98?</p> <p>7 A Because it took us two years to sift through</p> <p>8 what we wanted to put in our ordinance.</p> <p>9 Q So if this was passed in July 2000 you think</p> <p>10 you started thinking about it two years before that?</p> <p>11 A I know we did.</p> <p>12 Q How do you know you did?</p> <p>13 A Because I started collecting things two years</p> <p>14 before from different areas. We used to put a feeler out to</p> <p>15 our engineer and different places, but I can't tell you the</p> <p>16 exact date.</p> <p>17 Q Were there other meetings of the township</p> <p>18 supervisors at which this land development and subdivision</p> <p>19 ordinance was discussed besides the one at which it was</p> <p>20 passed?</p> <p>21 A Oh, yes.</p> <p>22 Q And how do you recall that? I mean, just in</p> <p>23 keeping the minutes, is that it?</p> <p>24 A Yes.</p> <p>25 Q Was it discussed on a regular basis at the</p> | <p style="text-align: right;">61</p> <p>1 number of occasions, correct?</p> <p>2 A Yes, I did.</p> <p>3 Q Do you recall the nature of those discussions?</p> <p>4 A No.</p> <p>5 Q Do you recall who talked about it?</p> <p>6 A No.</p> <p>7 Q You don't recall anything about any of the</p> <p>8 discussions?</p> <p>9 A No, I don't.</p> <p>10 Q At the meeting that was held, according to</p> <p>11 you, on July 10th, correct?</p> <p>12 A Yes.</p> <p>13 Q Was there any discussion among the public over</p> <p>14 the driveway ordinance?</p> <p>15 A I don't recall.</p> <p>16 Q Was there any discussion about the privy</p> <p>17 ordinance?</p> <p>18 A I don't recall.</p> <p>19 Q How did the driveway ordinance come up? Whose</p> <p>20 idea was that, do you recall?</p> <p>21 A I don't know.</p> <p>22 Q Do you know when it was first raised?</p> <p>23 A I don't -- I don't know.</p> <p>24 Q What about the privy ordinance, when was that</p> <p>25 first raised?</p> |

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1 A I don't know that either.
2 Q I think you had mentioned -- so prior to the
3 passage of the driveway ordinance, did the township collect
4 fees for driveways for when a resident wanted to put in a
5 driveway?
6 A Not that I'm aware of.
7 Q What about for the privies? Was there a fee
8 that was paid when somebody wanted to put a privy in?
9 A Not that I'm aware of. Not to the township.
10 Q Are you aware of fees being paid to anybody
11 else in connection with a privy before the ordinance was
12 passed?
13 A Only the SEO.
14 Q What about the driveway, are you aware of fees
15 being paid to anybody else?
16 A No.
17 Q I think that you had mentioned earlier that
18 you didn't know what the application for building permits
19 looked like. I'm going to show you a document that we are
20 going to mark as Wirth Exhibit 3. That's for you.
21 (Application for building permit produced and
22 marked as Wirth Exhibit No. 3.)
23 BY MS. MONTGOMERY:
24 Q I'd ask you to take a look at it for me.
25 A I didn't say that I didn't know what that

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1 application looked like. What I said was that I didn't know
2 where -- what -- you asked me where he keeps these things
3 and what that looked like and I don't know that, but I do
4 know what this application looks like.
5 Q Well, I'm not going to argue with you because
6 the record will speak for itself, but I did ask you what did
7 they look like, were there many pages, what's an application
8 look like, a lot of pages, one page, two pages, and you said
9 you didn't know. So I'm going to show you this to see if
10 you can now talk to me about what these applications look
11 like, okay.
12 MS. MONTGOMERY: Tony, do you have your copy?
13 This is Exhibit 3.
14 THE WITNESS: I know what this is.
15 BY MS. MONTGOMERY:
16 Q What is it?
17 A It's a -- it's the application for the
18 building permit.
19 Q For?
20 A For?
21 Q Is this a standard application for a building
22 permit?
23 A Yes.
24 Q Is this the standard size of the application
25 for the building permit?

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1 A You mean paper size?
2 Q Yes, paper size.
3 A Yes.
4 Q Just one sheet, correct?
5 A Yes.
6 Q So when I asked you earlier, you know, about
7 getting the building applications for building permits from
8 Van Dommelen and you indicated that they were cumbersome and
9 then I asked you, well, how big are they, can you now
10 explain to me why we couldn't get these one sheet -- one
11 sheet applications for building permits?
12 A I -- you asked me what he -- where he keeps
13 them or what he does with them and how big this is and I
14 said I don't know, and I don't know. I was not referring to
15 a piece of paper.
16 Q I'm also going to show you a document that
17 we're going to mark as Wirth Exhibit 4.
18 (Minutes dated 7/10/00 produced and marked as
19 Wirth Exhibit No. 4.)
20 BY MS. MONTGOMERY:
21 Q I'd ask you to look at that. Do you recognize
22 that document, Miss Wirth?
23 A Yes.
24 Q Can you describe it for the record, please?
25 A It's the minutes for July 10th, 2000.

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1 Q For the meeting of the supervisors --
2 A Yes.
3 Q -- of Jackson Township?
4 A Yes.
5 Q Do you see where it says meeting adjourned
6 7:30?
7 A Yes.
8 Q So you indicated the meeting started as -- as
9 advertised at 7 p.m.?
10 A Right.
11 Q And I had asked you earlier if you knew how
12 long the meeting lasted, correct?
13 A Yes.
14 Q Now, that would indicate that the meeting
15 lasted a half hour. Does that sound right to you?
16 A Yes, it does.
17 Q Now, these minutes do not indicate who was
18 present at the meeting, correct?
19 A That's exactly right.
20 Q Is that because you have a separate attendance
21 sheet that would indicate who was present at the meeting?
22 A No, I probably didn't have an attendance sheet
23 then.
24 Q Earlier you testified that you now keep an
25 attendance sheet to record who's present at the township

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1 meetings, correct?
2 A Yes.
3 Q When did you start doing that?
4 A January, February this year, something like
5 that.
6 Q Why did you start doing that?
7 A Because I cannot remember everybody that's
8 there. And when people ask me, I don't know so that's why I
9 did that.
10 Q You don't record them in the minutes, who's
11 there?
12 A No.
13 Q You don't record who's at the meetings ever
14 until this January?
15 MR. SHERR: Objection, asked and answered and
16 it's argumentative. You can answer.
17 THE WITNESS: No.
18 MS. MONTGOMERY: Thank you.
19 BY MS. MONTGOMERY:
20 Q Now that you're looking at these minutes and
21 thinking about this meeting, does that help you recall who
22 was present at this meeting?
23 A Other than the supervisors you're saying?
24 Q Yes.
25 A I don't have any idea.

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1 Q Does it help you recall whether there were any
2 members of the public present at the meeting?
3 A No, I can -- usually there is, but I can't
4 tell you from looking at this if there was anybody there.
5 Q Let's talk about the procedures that the board
6 of supervisors uses in connection with enacting ordinances.
7 Are you familiar with that?
8 A I don't know what you want -- I don't know
9 what you mean.
10 Q What I mean is the process, what process does
11 the board of supervisors use in connection with enacting an
12 ordinance? What steps do they have to take?
13 A I know it has to be advertised, okay. It has
14 to be made available to the public. That's all I know that
15 -- and it's got to be passed at a meeting and put down in
16 the minutes.
17 Q I mean, I think you testified earlier in
18 connection with describing your duties as the secretary and
19 the treasurer that you keep all the business of the township
20 and that you basically keep track of all the things that the
21 township has to do and you said -- and the record will speak
22 for itself, but I think you described it to me as there are
23 a lot of things that you have to do, say to get grants or to
24 do this or to do that and you keep all that stuff organized
25 for the township supervisors; isn't that correct?

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1 A That is correct.
2 Q So in connection with what the board of
3 supervisors has to do in enacting an ordinance, do you have
4 some sort of a file or something that helps you help them
5 make sure that they're doing what they're supposed to do in
6 enacting an ordinance?
7 A No.
8 Q Why is that?
9 A We've only done these three ordinances and
10 they were taken care of by Larry Newton.
11 Q So you weren't involved in it at all,
12 discussing --
13 A I don't know what -- repeat the question.
14 Q You weren't involved in saying, okay, now we
15 have to do this to make sure that we -- you know, do
16 whatever we have to do to get the ordinance enacted, you
17 weren't involved in that?
18 A I talked to Larry Newton about it, yes, and I
19 think I talked to the county planner about it.
20 Q Do you remember the substance of those
21 conversations?
22 A I think I asked him for the routine we needed
23 to do and Larry took care of it.
24 Q You asked Larry Newton for the routine that
25 you had to do?

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1 A Yes, and for the county -- and to the county
2 planner.
3 Q And the county planner?
4 A Um-hum.
5 Q When you say the county planner, are you
6 referring to Richard Stahl?
7 A Yes.
8 Q What did Larry Newton tell you that you had to
9 do in connection with the ordinance?
10 A You mean other than advertising the ordinance
11 and making it available?
12 Q Right.
13 A Just exactly what I told you before, that's
14 what he told us to do.
15 Q Do you recall anything else, that's all I'm
16 asking you?
17 A No.
18 Q How many occasions did you talk to Larry
19 Newton about the enacting of a subdivision and land
20 development ordinance?
21 A I have no idea.
22 Q You can't remember?
23 A No.
24 Q Can you say you talked to him frequently or
25 infrequently? Can you narrow it that way?

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| <p style="text-align: right;">70</p> <p>1 A Probably infrequently.</p> <p>2 Q Over the course of how many years?</p> <p>3 A Over the course of how many years?</p> <p>4 Q Yes.</p> <p>5 A I don't know what you're asking.</p> <p>6 Q Well, I'm asking you how often you talked to</p> <p>7 Larry Newton about the enactment of a subdivision and land</p> <p>8 development ordinance and you said probably infrequently.</p> <p>9 And I'm asking you infrequently over the course of how many</p> <p>10 years?</p> <p>11 A Okay, probably in the beginning of -- I don't</p> <p>12 know. I don't know how many times I talked to him.</p> <p>13 Q Did you have occasion to talk to Larry Newton</p> <p>14 about the Corneal property?</p> <p>15 A Yes.</p> <p>16 Q Can you recall how many times you talked to</p> <p>17 Larry Newton about the Corneal property?</p> <p>18 A No, I can't.</p> <p>19 Q Did you ask Larry Newton to give you some</p> <p>20 guidance or advice about how to deal with the Corneal</p> <p>21 property?</p> <p>22 A No.</p> <p>23 Q What did you talk to him about in connection</p> <p>24 with the Corneal property?</p> <p>25 A I can't remember -- we talked to him about the</p> | <p style="text-align: right;">72</p> <p>1 A It would have to be on the telephone.</p> <p>2 Q On the telephone between you and him?</p> <p>3 A Well, it could have been between me, it could</p> <p>4 have been on the speaker phone with one of the supervisors.</p> <p>5 You know, we've talked about things.</p> <p>6 Q You recall both occurrences?</p> <p>7 A Yes.</p> <p>8 Q Conference calls with the supervisors and</p> <p>9 Larry and you and conversations separately between you and</p> <p>10 Larry, correct?</p> <p>11 A I said supervisor.</p> <p>12 Q Supervisor. Which supervisor?</p> <p>13 A I don't know. I don't know if they were all</p> <p>14 there. I'm just saying that's what I said. I don't know.</p> <p>15 Q Well, give me an idea of how you would come to</p> <p>16 talk to Larry about the Corneal property? Would you call</p> <p>17 him up?</p> <p>18 A Most of the time he called us because the</p> <p>19 information went from Jim Himes to Larry and then through</p> <p>20 Larry to us.</p> <p>21 Q Who is Jim Himes?</p> <p>22 A He was a -- I think it's Jim Himes. He was an</p> <p>23 attorney that Mr. Corneal was using in Huntingdon.</p> <p>24 Q So you're saying that Larry would call you and</p> <p>25 say I've spoken to Jim Himes and this is what I understand</p> |
| <p style="text-align: right;">71</p> <p>1 lawsuit, I know that.</p> <p>2 Q About this lawsuit you mean?</p> <p>3 A This lawsuit and the state lawsuit, the</p> <p>4 lawsuit we initiated.</p> <p>5 Q Do you recall talking to him about the Corneal</p> <p>6 property prior to the initiation of the lawsuit?</p> <p>7 A Yes, we did do that.</p> <p>8 Q Was Larry Newton generally aware of what was</p> <p>9 going on with the Corneal property prior to the initiation</p> <p>10 of the lawsuit?</p> <p>11 A I don't know. I can't answer that.</p> <p>12 Q Do you have reason to believe in your</p> <p>13 interaction with Larry Newton that he knew generally what</p> <p>14 was going on in connection with the Corneal property between</p> <p>15 the Corneals and the township?</p> <p>16 A I don't really know whether Larry did or not.</p> <p>17 Q Well, let's try and just, you know, back up a</p> <p>18 second and maybe we can jog your memory somehow. You</p> <p>19 indicated that you know that you spoke with Larry Newton</p> <p>20 prior to initiation of the lawsuits about the Corneal</p> <p>21 property, correct?</p> <p>22 A Yes, we did.</p> <p>23 Q On what occasions? At township meetings?</p> <p>24 A No, he was not at the township meetings.</p> <p>25 Q On what occasions then?</p> | <p style="text-align: right;">73</p> <p>1 to be going on with the Corneals?</p> <p>2 A No, what I'm saying is we got information from</p> <p>3 Larry, like the first document we got came to Larry from --</p> <p>4 I guess it -- I think it was either him or Simpson. I'm not</p> <p>5 sure how it got to Larry.</p> <p>6 Q Who is Simpson, who are you referring to?</p> <p>7 A The surveyor I believe that did the original</p> <p>8 survey.</p> <p>9 Q When you say the first document, what do you</p> <p>10 mean the first document?</p> <p>11 A We had a land -- a plot plan.</p> <p>12 Q So that went to Larry and then came to you?</p> <p>13 A Yes, but I'm not sure how Larry got it.</p> <p>14 Q So prior to the lawsuit which was initiated</p> <p>15 last summer, summer 2000, July 2000 --</p> <p>16 MR. CORNEAL: July.</p> <p>17 BY MS. MONTGOMERY:</p> <p>18 Q Can you estimate how many times you talked to</p> <p>19 Larry Newton about the Corneal property?</p> <p>20 A I don't recall.</p> <p>21 Q Was it more than twice?</p> <p>22 A Oh, I'm sure it was more than twice.</p> <p>23 Q Do you think it was more than 10 times?</p> <p>24 A I doubt it.</p> <p>25 Q Do you think it was more than five?</p> |

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| <p style="text-align: right;">74</p> <p>1 A I don't know.</p> <p>2 Q But you're sure it was more than two?</p> <p>3 A Yes. I talked to him more than twice.</p> <p>4 Q Do you recall what you talked to him about?</p> <p>5 A Not really. I've talked to Larry about a lot</p> <p>6 of things with the township.</p> <p>7 Q Now, you mentioned that you remember being on</p> <p>8 a conference call with Larry and at least one of the other</p> <p>9 supervisors, one of the supervisors, correct?</p> <p>10 A Yes.</p> <p>11 Q Do you recall what you talked about to Larry</p> <p>12 during that meeting or what anybody talked about to Larry</p> <p>13 during that meeting?</p> <p>14 A I think that was after the lawsuit was served.</p> <p>15 Q Did you or the supervisors to your knowledge</p> <p>16 initiate any separate meetings with Larry -- or have any</p> <p>17 separate meetings with Larry, I should say. Have any</p> <p>18 separate meetings with Larry to discuss the Corneal property</p> <p>19 prior to the lawsuit?</p> <p>20 A Prior?</p> <p>21 Q Yes.</p> <p>22 A I can't -- I can't recall that either.</p> <p>23 Q Have you ever been at a township meeting where</p> <p>24 Mr. Corneal was present?</p> <p>25 A Twice.</p> | <p style="text-align: right;">76</p> <p>1 Q Do you recall what happened at that meeting?</p> <p>2 A Yes, they told him that there was a moratorium</p> <p>3 and we wouldn't be signing -- approving any more</p> <p>4 subdivisions.</p> <p>5 Q Do you recall any contact with Mr. Corneal</p> <p>6 prior to that February meeting?</p> <p>7 A I really don't.</p> <p>8 Q You don't recall speaking with him?</p> <p>9 A No, I don't.</p> <p>10 Q Do you recall him being at any other meetings?</p> <p>11 A No.</p> <p>12 Q So let's talk a little bit more about that</p> <p>13 meeting, okay. Mr. Corneal came in, who else was present?</p> <p>14 A The supervisors.</p> <p>15 Q Anybody else?</p> <p>16 A I don't -- there was people there, but I --</p> <p>17 I'm sure. I don't know who they were.</p> <p>18 Q Do you recall how many people were there?</p> <p>19 A There's usually -- there's usually four, but I</p> <p>20 can't swear who they were.</p> <p>21 Q Is it typically the same four people?</p> <p>22 A Yes.</p> <p>23 Q Who are they?</p> <p>24 A Denson Groenendaal. Rick Saunders, and I</p> <p>25 can't swear to that because he was ill for a long time, but</p> |
| <p style="text-align: right;">75</p> <p>1 Q Twice?</p> <p>2 A That I recall.</p> <p>3 Q You recall twice. Do you recall when those</p> <p>4 times were?</p> <p>5 A I think it was February and April. It's in</p> <p>6 the minutes.</p> <p>7 Q February and April of --</p> <p>8 A Or maybe it was February and March or January</p> <p>9 and March.</p> <p>10 Q Of 2000?</p> <p>11 A Yes, it was either January and March or --</p> <p>12 yeah, maybe that's when it was.</p> <p>13 Q Do you recall what happened at those meetings?</p> <p>14 A Yes.</p> <p>15 Q Can you tell me what happened at the February</p> <p>16 -- let's start with the February meeting?</p> <p>17 A Was it February?</p> <p>18 (Pause.)</p> <p>19 THE WITNESS: In -- what's the date, February</p> <p>20 -- February 7th when Mr. Corneal came and asked the</p> <p>21 supervisors to sign his subdivision ordinance -- or his</p> <p>22 subdivision -- I'm sorry, to sign his subdivision plan.</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q In February of 2000?</p> <p>25 A Correct.</p> | <p style="text-align: right;">77</p> <p>1 he normally is there. And it's usually Barb Hawbaker and</p> <p>2 Bet White, but I can't swear that any of those were there.</p> <p>3 I don't know. And maybe Mike Koch.</p> <p>4 Q Mike Koch?</p> <p>5 A Maybe. I don't know.</p> <p>6 Q So those four individuals that you mentioned</p> <p>7 earlier are usually there. Is Mike Koch sometimes usually</p> <p>8 there or what?</p> <p>9 A Sometimes he's there, sometimes he's not.</p> <p>10 Q Anybody else there from time to time?</p> <p>11 A Mr. Corneal.</p> <p>12 Q Anybody else?</p> <p>13 A I can't remember.</p> <p>14 Q The four individuals that you named earlier</p> <p>15 and Mr. Koch, have they been attending township meetings for</p> <p>16 a long time?</p> <p>17 A Sometimes.</p> <p>18 Q Well, the question is a little different than</p> <p>19 that. Is their attendance -- does their frequent</p> <p>20 attendance, as I think you described it, go back several</p> <p>21 years?</p> <p>22 A Yes.</p> <p>23 Q Does it go back all six years you've been with</p> <p>24 the township?</p> <p>25 A No.</p> |

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1 Q When did it start?
2 A **I don't remember when they started --**
3 Q Do you know why these particular people always
4 attend township meetings?
5 A **I would say because they're interested in**
6 **what's going on in the township.**
7 Q Are they the only people that attend township
8 meetings or are there others in addition to them from time
9 to time?
10 A **Sometimes there will be other people.**
11 Q Do you ever recall -- do you know who the
12 Hewetts are?
13 A **Yeah, I do. I do know who the Hewetts are.**
14 Q Do you recall the Hewetts being at any
15 township meetings?
16 A **They might have been, I don't know. They**
17 **might have been at that meeting. I'm not sure.**
18 Q Do you recall them being at one meeting, more
19 than one meeting?
20 A **I remember that they were at -- they were**
21 **definitely in the April meeting.**
22 Q They were definitely in the April meeting?
23 A **I remember that.**
24 Q Why do you recall that?
25 A **Because that was the night that Mr. Corneal**

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1 **said he was not subdividing and they were sitting there and**
2 **I remember that. And they -- I don't know what ...**
3 Q That meeting that they were at, that April
4 meeting, do you recall who else was there?
5 A **No. It could have been the same group.**
6 Q At the February 7, 2000 meeting you indicated
7 that Mr. Corneal presented his proposed subdivision plan to
8 the township supervisors, correct?
9 A **Right.**
10 Q What happened to the subdivision plan? Did he
11 hand it to them?
12 A **No.**
13 Q He didn't hand it to them?
14 A **No.**
15 Q What did he do with it?
16 A **He took it with him.**
17 Q He never handed it over to any of the township
18 supervisors?
19 MR. SHERR: Objection. It's been asked and
20 answered. You can answer.
21 MS. MONTGOMERY: I want to make sure she
22 understands the question.
23 THE WITNESS: They may have looked at it. I'm
24 not sure. I can't remember if they looked at it and -- but
25 we did not keep it.

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1 BY MS. MONTGOMERY:
2 Q Why not?
3 A **I don't know. I don't remember what the -- I**
4 **just know what was here, okay, so -- but it never stayed**
5 **with the supervisors. If they looked at it that night, I**
6 **don't remember that.**
7 Q Did they hand it back to him?
8 A **Yes, it never stayed with us.**
9 Q Did Mr. Corneal ask them to keep it, do you
10 know?
11 A **No, not that I'm aware of.**
12 Q What else happened at that February 7, 2000
13 meeting, if you recall?
14 A **Other than what's in the minutes?**
15 Q Well, anything that you recall.
16 A **I don't recall anything other than what's in**
17 **the minutes.**
18 Q Did the supervisors know that Mr. Corneal was
19 going to bring his subdivision plan into that meeting?
20 A **I don't know that either.**
21 Q Did you know?
22 A **I can't remember ever talking to Mr. Corneal**
23 **until this point.**
24 Q Do you recall talking to anybody else about
25 Mr. Corneal prior to that February 7th meeting?

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1 A **No, I don't.**
2 Q Now, you had mentioned that there was -- you
3 keep an agenda, right?
4 A **Yes.**
5 Q Was Mr. Corneal's subdivision plan on the
6 agenda for that meeting?
7 A **I don't remember that, I don't.**
8 Q You mentioned earlier that you recall the
9 Hewetts being at the April meeting.
10 A **I do.**
11 Q Did you have occasion to talk to the Hewetts
12 before the meeting?
13 A **John Hewett called and asked if the meeting**
14 **was on that day and I -- you know, if we were having our**
15 **regular meeting and I said yes.**
16 Q So you knew they were going to be there?
17 A **He didn't -- well, I knew he called to ask**
18 **about the meeting, that's all I knew.**
19 Q I'm going to give you a document that we're
20 going to mark as Wirth Exhibit 5. Let me give a copy to the
21 court reporter.
22 (Minutes dated 2/7/00 produced and marked as
23 Wirth Exhibit No. 5.)
24 BY MS. MONTGOMERY:
25 Q I'd ask you to identify it for the record,

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1 please.
2 A It's the minutes from February 7th, 2000.
3 Q Now, as you're looking at those minutes,
4 there's a reference to Denny Grandthal, is that --
5 A Groenendaal.
6 Q I'm sorry?
7 A That's Denny Groenendaal. I have it spelled
8 wrong here.
9 Q Denny Groenendaal?
10 A Right.
11 Q Presented a copy of the concerns and opinions
12 of the taxpayer's associations on the proposed subdivision
13 ordinances, right?
14 A Yes, he did.
15 Q Do you have a copy of those concerns and
16 opinions?
17 A Yes.
18 Q Did you provide them in connection with your
19 search for documents for this lawsuit?
20 A You didn't ask me for those.
21 Q You do have a copy of them now, you said,
22 right?
23 A Pardon?
24 Q You do have a copy of them in your files,
25 right?

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1 A Yeah, I believe I did see those when I went
2 through the files.
3 Q Do you recall anything about those concerns
4 and opinions?
5 A No.
6 Q So there was discussion at this February 7th
7 meeting about this proposed subdivision ordinance?
8 A Obviously.
9 Q You don't recall anything about it?
10 A No, I don't, other than what's here.
11 Q Now, at this February 7, 2000 meeting you
12 indicated that the township supervisors told David Corneal
13 that there was a moratorium in place, correct?
14 A Yes.
15 Q A moratorium on what?
16 A Approving subdivisions.
17 Q And when did that moratorium go into place?
18 A At the January meeting.
19 Q Was there some sort of a resolution or
20 something indicating that the moratorium was being placed?
21 A No, it's only in the minutes.
22 Q It's only in the minutes. Was the moratorium
23 discussed at any earlier meetings?
24 A I don't recall.
25 Q But you do recall that there's no resolution

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1 or other written document concerning the moratorium,
2 correct?
3 A Yes, I do recall that.
4 Q So do you recall -- I'm not sure if I asked
5 you this question and I apologize if I already did, but I'll
6 ask you again. Do you recall when the moratorium was first
7 discussed at a township meeting?
8 A The January meeting.
9 Q That was the first time?
10 A That's when it's in the minutes. I don't
11 recall that it was discussed beforehand.
12 Q You only missed one meeting, correct?
13 A Yes.
14 Q So if it was discussed, it would be in the
15 minutes, correct?
16 A It should be.
17 Q Now, was there any discussion about the
18 moratorium prior to the January meeting informally among the
19 supervisors and you?
20 A I don't recall.
21 Q Well, I'll just ask you more generally. Do
22 you recall discussing the moratorium at any time other than
23 at the January meeting?
24 A No.
25 Q With anybody?

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1 A No.
2 Q You didn't?
3 A Well, I can't say anybody.
4 Q Why is that, why can't you say anybody?
5 A I don't know if I did.
6 Q Because you just don't remember?
7 A I just don't remember.
8 Q Do you know what Mr. Corneal said at the
9 February meeting in response to the supervisors telling him
10 that there was a moratorium in place?
11 A No. Other than what's in my minutes, I don't
12 remember.
13 Q If I tell you that Mr. Corneal told the
14 supervisors that the moratorium was illegal, does that jog
15 your memory at all? Do you recall him --
16 A I don't remember him saying that.
17 Q You don't recall him saying anything --
18 A Other than what I have in my minutes, I don't
19 recall.
20 Q Now, you mentioned that at the April meeting
21 the Hewetts were present, correct, and that they -- that
22 John Hewett had called ahead of time and asked what was on
23 the agenda, correct?
24 MR. SHERR: Objection.
25 BY MS. MONTGOMERY:

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| <p style="text-align: right;">86</p> <p>1 Q What did you say?</p> <p>2 MR. SHERR: Objection. It's been asked and</p> <p>3 answered and you're misstating testimony now on the record,</p> <p>4 misstating the witness's testimony. You can answer it.</p> <p>5 THE WITNESS: What are you asking me?</p> <p>6 MR. SHERR: She's asking you what Hewett said</p> <p>7 when he called up.</p> <p>8 THE WITNESS: He just wanted to know what was</p> <p>9 on the agenda.</p> <p>10 BY MS. MONTGOMERY:</p> <p>11 Q Like I said, I'm just laying a little</p> <p>12 foundation so we can go back to that meeting, okay. If ever</p> <p>13 I mischaracterize anything you say earlier, you should</p> <p>14 correct me because I don't want to do that, okay?</p> <p>15 A Okay.</p> <p>16 Q In the course of that conversation did you</p> <p>17 have any -- you know, how long was that conversation with</p> <p>18 John Hewett?</p> <p>19 A I don't remember.</p> <p>20 Q Do you know John Hewett's wife?</p> <p>21 A I don't know as he has a wife.</p> <p>22 Q Or his --</p> <p>23 A I don't know the situation there. I don't</p> <p>24 know. I don't want to misstate that because I don't know.</p> <p>25 Q Well, we call them the Hewetts.</p> | <p style="text-align: right;">88</p> <p>1 Q Did they tell you why they were interested in</p> <p>2 knowing how soon that you --</p> <p>3 A No.</p> <p>4 Q Did you understand why they wanted to know?</p> <p>5 A I don't know what you want me -- I don't know</p> <p>6 what you're asking me.</p> <p>7 Q I'm asking you if you understood why they were</p> <p>8 asking you about how soon you were going to pass the</p> <p>9 subdivision ordinance?</p> <p>10 A I probably did.</p> <p>11 Q You probably did understand?</p> <p>12 A Yes.</p> <p>13 Q What was your understanding?</p> <p>14 A That they were going to move into the</p> <p>15 neighborhood, you know, and they wanted to know about the</p> <p>16 subdivision ordinance and when we were going to approve it.</p> <p>17 Q Do you know why they wanted to know that,</p> <p>18 though?</p> <p>19 A No, I don't know that.</p> <p>20 Q Do you know where they were going to move?</p> <p>21 A Yes, in Mr. Corneal's farmhouse.</p> <p>22 Q Do you know how they were going to go about</p> <p>23 moving into Mr. Corneal's farmhouse?</p> <p>24 A I have no idea.</p> <p>25 Q Do you know whether they were going to</p> |
| <p style="text-align: right;">87</p> <p>1 A I probably did and that's probably like the</p> <p>2 7th, I did that wrong, but I don't know that.</p> <p>3 Q Do you know the woman who keeps company with</p> <p>4 John Hewett?</p> <p>5 A I've only ever seen her one time.</p> <p>6 Q Do you know her name, her first name?</p> <p>7 A Joanne Smith, I think it is. Smith is her</p> <p>8 last name.</p> <p>9 Q Joanne Smith, okay. Did she come to the</p> <p>10 meeting with John Hewett in April?</p> <p>11 A I think she was there that night.</p> <p>12 Q Did you have any discussions with the Hewetts</p> <p>13 prior to the meeting other than the telephone call that he</p> <p>14 placed to you?</p> <p>15 A No.</p> <p>16 Q No informal discussion, no chitchat?</p> <p>17 A No.</p> <p>18 Q What about after the meeting?</p> <p>19 A I think she came up to me and talked to me,</p> <p>20 either she or -- or one of them did. I think it was her.</p> <p>21 Q What did they talk about?</p> <p>22 A She introduced herself to me that night.</p> <p>23 Q Do you recall what they talked to you about?</p> <p>24 A They were asking -- they were asking how soon</p> <p>25 we were going to pass the subdivision ordinance.</p> | <p style="text-align: right;">89</p> <p>1 purchase Mr. Corneal's --</p> <p>2 A I do know they were going to purchase it.</p> <p>3 Q Do you know if they were going to purchase the</p> <p>4 farmhouse and anything else?</p> <p>5 A Yes, it was on the plot plan. They were going</p> <p>6 to purchase the farmhouse and some acreage.</p> <p>7 Q So in April 2000 you understood that that was</p> <p>8 why they were asking about the subdivision ordinance?</p> <p>9 A Right.</p> <p>10 Q Do you recall any other aspects of that</p> <p>11 conversation --</p> <p>12 A No.</p> <p>13 Q -- any more specifics?</p> <p>14 A No.</p> <p>15 Q Let me finish my question. It's for her sake.</p> <p>16 A I'm sorry.</p> <p>17 Q Did they express any concern to you about</p> <p>18 their purchase of Mr. Corneal's farmhouse?</p> <p>19 A Not that I recall.</p> <p>20 Q Did you notice whether or not they talked to</p> <p>21 any of the supervisors?</p> <p>22 A They might have. I don't know. I'm usually</p> <p>23 closing my books so I don't know.</p> <p>24 Q I'm going to show you a document that we're</p> <p>25 going to mark as Wirth Exhibit 6.</p> |

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1 (Minutes dated 1/4/00 produced and marked as
2 Wirth Exhibit No. 6.)
3 BY MS. MONTGOMERY:
4 Q Do you recognize this document that we've
5 marked as Wirth Exhibit 6?
6 A I do, but I don't recognize the writing that's
7 on the bottom. I don't know where that came from.
8 Q That was one of my questions for you, thank
9 you. Now, am I correct in saying that this was the meeting
10 in which the moratorium was approved --
11 A Yes, you are.
12 Q -- or passed or a resolution --
13 A Yes, you are.
14 Q Do you have any documents in your office about
15 the moratorium that you didn't produce?
16 A No.
17 Q Do you know whether any documents exist
18 related to the moratorium?
19 A No.
20 Q You don't know?
21 A No.
22 Q Or they don't exist? I'm just asking --
23 A They don't -- this is it.
24 Q They don't exist?
25 A Right.

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1 Q So I notice here that the meeting opened at
2 7:10 p.m., correct?
3 A No, there's another section to this. You
4 don't have both sections.
5 Q What is the other section?
6 A It's the reorganizational meeting where we do
7 all the appointing of the supervisors and state what our tax
8 rates are going to be and all that and you don't have the
9 other section here.
10 Q So was this the meeting -- the meeting started
11 at --
12 A That started at seven and this one started at
13 7:10.
14 Q Was the meeting started at seven open to the
15 public?
16 A Always.
17 Q Always, okay. Do you have separate minutes
18 for that meeting?
19 A Yes.
20 MR. SHERR: And they have been provided.
21 BY MS. MONTGOMERY:
22 Q So it looks like the regular meeting at which
23 the moratorium was discussed lasted from 7:10 to 7:35 p.m.,
24 correct?
25 A Yes.

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1 Q Thank you. Do you know whether they
2 advertised -- or did you advertise this particular meeting
3 on January 4, 2000 where the moratorium was discussed?
4 A I didn't advertise it.
5 Q Do you know whether anybody advertised it?
6 A I'm not sure if Larry did or not. I don't
7 know.
8 Q Did you put one of those notices on the
9 township or -- it's the firehouse door, right?
10 A Yes.
11 Q Did you put one of these notices on the
12 firehouse door?
13 A For what?
14 Q About the fact that the moratorium was going
15 to be discussed.
16 A Probably not.
17 Q Did you talk to Mr. Newton about the
18 moratorium prior to this January meeting?
19 A I probably did.
20 Q You probably did?
21 A Yes.
22 Q Why do you think you probably did?
23 A I would have wanted to know what to do.
24 Q You would have wanted to know whether it was
25 okay to do the moratorium you mean?

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1 A I don't know what you're asking me.
2 Q Well, you said you would have wanted to know
3 what to do. I'm just trying to get a feel for -- what do
4 you mean? You wanted to know what to do. You wanted to
5 know whether to advertise it or was it okay to do the
6 moratorium or what?
7 A I don't know if I would have asked him about
8 the advertisement. I don't know if I would have done that,
9 but I probably would have asked him about this, if it was
10 all right to put it in the minutes.
11 Q If it was okay to put the existence of the
12 moratorium in the minutes?
13 A Yes.
14 Q Would you have asked him whether it was okay
15 to impose the moratorium?
16 A I'm not sure I asked him that.
17 Q You don't recall?
18 A No.
19 Q You had mentioned earlier that you did
20 research for the supervisors?
21 A Sometimes.
22 Q What kind of research?
23 A I would ask questions about -- well, I call to
24 see what stone rates are and all those kind of things.
25 Q You call and find out what procedures you have

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1 to follow? I mean --
2 A Sometimes.
3 Q Do you call Larry Newton to find out what
4 procedures you would have to follow?
5 A If they ask me to.
6 Q Have you done that in connection with the
7 subdivision and land development ordinance?
8 A Some things, some parts of it.
9 Q You've called Larry Newton and asked is this
10 okay or is that okay?
11 A I'm not sure I've talked to Larry Newton about
12 everything. I've talked to PSATS, you know.
13 Q So that's the kind of research you do for the
14 township, just --
15 A Yes.
16 Q Anything? Is it just a broad range of
17 research that you do?
18 A When it's needed I do that.
19 Q Do you know whether the supervisors talked to
20 Larry Newton about the moratorium?
21 A You'll have to ask them.
22 Q Was Larry Newton present at the meeting?
23 A No.
24 Q Why do you recall that?
25 A Because Larry never comes to the meeting

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1 unless I request him.
2 Q And you didn't request him to come to this
3 meeting?
4 A No.
5 Q I'm just going to try, you know, and ask you
6 some questions just so you can try and remember a little bit
7 more about discussing the moratorium. Maybe it won't work,
8 maybe it will work, but I just want to try to get as much
9 factual information as I can so we can understand the
10 moratorium.
11 Is there anybody else that you recall asking
12 about the moratorium prior to the day it was passed?
13 A Like who?
14 Q I'm asking you, anybody.
15 A I don't remember anybody asking me about the
16 moratorium.
17 Q Did you discuss it with the township
18 supervisors?
19 A We would have discussed it, yes.
20 Q In what capacity, in what context?
21 A I don't know.
22 Q You mean over the telephone?
23 A I don't remember if we would have talked about
24 it over the telephone or at the meeting. I'm sure we've
25 discussed it. I just don't remember when.

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1 Q Well, there's no -- if you had discussed it at
2 prior township meetings, it would be reflected in the --
3 A It would be in the minutes.
4 Q Right. So if it's not in the minutes, it
5 wasn't discussed, right?
6 A Right.
7 Q Now, I just want to ask you, do you recall who
8 first brought up the idea of the moratorium?
9 A I don't.
10 Q You don't know whose idea it was?
11 A No.
12 Q Was there one particular supervisor who was --
13 in your memory who was a proponent of the moratorium more
14 than any other supervisor?
15 A No, I cannot remember anybody being that.
16 Q Now, do you recall any specifics about
17 discussions of the moratorium at the January meeting?
18 A Other than what's in my minutes?
19 Q Yes.
20 A No.
21 Q Do you recall who else was present at the
22 January meeting?
23 A All the supervisors.
24 Q Anybody else?
25 A Me. I'm not sure about Dave Van Dommelen. I

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1 don't know. I don't know.
2 Q Do you recall whether there was any member of
3 the public present?
4 A I don't know if Mr. Corneal was there or not.
5 I don't know. I guess it says he was, right? No, he wasn't
6 at the January meeting. It doesn't say that. I don't know.
7 Q In your minutes it indicates that -- in the
8 minutes of your January 4 meeting, which I guess is
9 Exhibit 6, it states that the supervisors stated that no
10 more subdivisions will be approved. Do you know which
11 supervisor said that? I mean, they didn't say that in
12 unison, right? One supervisor reported that, correct?
13 A I don't -- that is just that they all agreed
14 on it. They all agreed. So no one in particular, they just
15 all agreed, and that's what I wrote down there.
16 Q So it's just a summary of what they stated?
17 A Right.
18 Q At the township meetings does one supervisor
19 sort of take the lead or, you know, act as the chair of the
20 meetings or anything like that?
21 A There is a chair.
22 Q And who is that?
23 A In 2000 it was Ralph Weiler.
24 Q So does he sort of lead the agenda? Does he
25 announce the items on the agenda for discussion or do you do

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1 that?
2 A He does that.
3 Q What's his role as chairman exactly? What all
4 does he do?
5 A He leads the meeting.
6 Q When he leads the meeting -- so he says now
7 we're going to talk about X and now we're going to talk
8 about Y?
9 A Yeah.
10 Q Do you recall him doing that that night?
11 A No.
12 Q In your minutes it also refers to as soon as
13 we get the review from the planning commission. What are
14 you talking about, the review from the planning commission?
15 Do you recall?
16 A The review from the planning commission would
17 be one of the reviews from -- for the subdivision packet
18 that we had put together.
19 Q You had put together a packet?
20 A Yes.
21 Q Did the packet include anything about the
22 moratorium?
23 A I don't recall.
24 Q It says that the supervisors state that no
25 more subdivisions will be approved. Was it put to a formal

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1 Q What did you do in that two years?
2 A We got subdivision ordinances from different
3 areas and looked to see what we felt was unique to Jackson
4 Township because we are a unique area there. And we took
5 pieces from this subdivision and that subdivision and we put
6 them together to meet the needs of our township.
7 Q Who did that work?
8 A The supervisors.
9 Q Did you help?
10 A Yes, I read a lot of subdivision ordinances.
11 Q So did you have discussions with them over the
12 telephone about I like this -- part of this subdivision
13 ordinance and not that part of that other subdivision
14 ordinance?
15 A Whether I liked something or not?
16 Q Whether you thought it would work for Jackson
17 Township or not.
18 A That's not my decision.
19 Q You read a lot of subdivision ordinances,
20 though?
21 A Yes, I did.
22 Q Do you recall what subdivision ordinances you
23 read?
24 A We had -- we had one from Porter Township, we
25 had one from Miller Township, we had one from -- our

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1 vote or anything?
2 A I don't recall whether they passed a motion or
3 -- that's what I wrote down.
4 Q You don't recall whether they said all in
5 favor say aye?
6 A This is what I wrote and this is what I can
7 testify to.
8 Q Typically when they do something like this, do
9 they do it sort of like all in favor say aye, all in favor
10 say no and --
11 A Yes, they typically do. And I did not write
12 that down.
13 Q If you didn't write it down, does that mean it
14 didn't happen?
15 A No.
16 Q Now, there's another sentence in here that
17 says that the county is now doing the boiler plate
18 subdivision ordinance in these minutes.
19 A Yes, they are.
20 Q But Jackson Township had already put a lot of
21 time into the purpose -- do you mean proposed?
22 A Yes.
23 Q Proposed ordinance. What do you mean by a lot
24 of time?
25 A Two years.

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1 engineer gave us kind of a boiler plate one. We had one
2 from Tell Township and there was one from Lancaster County.
3 Q Who is your engineer?
4 A At the time it was EADS.
5 Q How do you spell that?
6 A E-A-D-S, all caps.
7 Q So why were you the one reading the
8 ordinances?
9 A We all were reading them.
10 Q All the township supervisors and you were
11 reading them?
12 A Yes.
13 Q And then you would discuss them?
14 A Yes.
15 Q What, would you hold special meetings to
16 discuss them or telephone conference calls or what?
17 A We had workshops to gather information on
18 them.
19 Q Were they informal workshops --
20 A Yes.
21 Q -- that the group of you just all got
22 together?
23 A Yes.
24 Q Where did you get together?
25 A Usually in my office.

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1 Q So do you have records of all those meetings
2 that you held?
3 A No, they're not -- they were just workshops
4 for gathering information.
5 Q Did you keep notes at those meetings or
6 anything?
7 A The only notes I would have had I would have
8 written alongside of whatever we did and ...
9 Q I'm going to show you another document that
10 I'm going to mark as Wirth Exhibit 7, the April 3, 2000
11 minutes of the Jackson Township supervisor meeting.
12 (Minutes dated 4/3/00 produced and marked as
13 Wirth Exhibit No. 7.)
14 BY MS. MONTGOMERY:
15 Q Now, can you review these minutes for me?
16 A Sure.
17 Q Can you identify them for the record?
18 A Yes, April 3rd, 2000 minutes, Jackson Township
19 Board of Supervisors.
20 Q Now, take a moment and review them and see if
21 it helps you remember what went on at the meeting that
22 night. Now, this April 3rd meeting, is this the meeting
23 that the Hewetts were present at, correct?
24 A Yes.
25 Q Who else was present?

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1 A Well, I can see here Art Walters was there,
2 David Corneal and I don't -- I remember Denson Groenendaal
3 was there that night.
4 Q And why do you remember that?
5 A Because he spoke to Mr. Corneal that night.
6 Q He spoke to him in the course of the meeting?
7 A No, I think it was after.
8 Q So you overheard that conversation?
9 A No, I just saw them talking and I remembered
10 that. I don't know why.
11 Q Anything else you remember about the meeting?
12 A No.
13 Q Now, these meetings would indicate that Mr.
14 Corneal at the April meeting discussed his sewage module,
15 right?
16 A Yes, he did.
17 Q Do you know whether this was the first time
18 Mr. Corneal ever came to a meeting and discussed his sewage
19 module?
20 A To the best of my knowledge.
21 Q To the best of your knowledge it was?
22 A Um-hum.
23 Q Your minutes indicate that he complained that
24 the supervisors would not sign his sewage modules; is that
25 right?

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1 A That's right.
2 Q What did the supervisors respond to him in
3 response to that complaint?
4 A Just what I have here.
5 Q Well, try and remember what they said to him,
6 if you can.
7 A That they couldn't approve the septic modules,
8 the sewage module.
9 Q Now, your minutes indicate that they said that
10 even though he told them that he was not going to subdivide,
11 okay, that they still wouldn't issue him a building permit
12 or approve the sewage module; isn't that correct?
13 A Let me see what it says here. What's in my
14 minutes is what happened.
15 Q Okay, that's fair. Your minutes indicate that
16 they said they are not going to issue a building permit for
17 a property that they know is going to be subdivided. How
18 did they know it was going to be subdivided?
19 A Because at a prior meeting he -- he had a plot
20 plan in his hand, and I guess that was the February meeting.
21 Q So was there a discussion between the February
22 meeting and the April meeting about Mr. Corneal's desire to
23 subdivide?
24 A Discussion with who?
25 Q With you and the supervisors.

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1 A Not that I'm aware of.
2 Q During this period of time were you still
3 meeting to discuss the subdivision ordinance, the proposed
4 subdivision ordinance?
5 A It was probably being typed then so I doubt --
6 I don't know.
7 Q How many times did you and the supervisors
8 have workshops to discuss the subdivision ordinance?
9 A I have no idea.
10 Q You can't remember at all?
11 A No. It went on over a long period of time.
12 Q Do you recall speaking yourself at the April
13 meeting?
14 A I probably did.
15 Q You probably did?
16 A (Witness nods head affirmatively.)
17 Q Do you usually speak at the meetings?
18 A Sometimes.
19 Q Now, I know that you said that you don't have
20 a vote, correct?
21 A I do not have a vote.
22 Q But you do speak at the meetings about
23 township business?
24 A Sometimes.
25 Q And you offer your opinions about township

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1 business?
2 A Sometimes.
3 Q Do you recall speaking at this meeting?
4 A No.
5 Q You don't recall anything? Do you recall
6 telling Mr. -- she shook her head. It should say no.
7 A I didn't think you were done yet.
8 MR. SHERR: And it shouldn't say no if she
9 didn't say no.
10 MS. THORP: Can we go off the record for one
11 moment?
12 MS. MONTGOMERY: Yes.
13 (Discussion held off the record.)
14 BY MS. MONTGOMERY:
15 Q At the April meeting do you recall speaking
16 directly to Mr. Corneal about his sewage modules or about
17 his proposed subdivision?
18 A I might have. I don't remember.
19 Q Well, do you have an opinion about whether or
20 not Mr. Corneal can build on his property even if he doesn't
21 subdivide?
22 A No.
23 Q You don't have an opinion about that?
24 A No.
25 Q Do you have an opinion about whether or not

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1 Mr. Corneal can build a second property -- a second house,
2 dwelling, on his property?
3 A I don't have an opinion, no.
4 Q Do you have a belief about whether or not he
5 can do it?
6 A No.
7 Q Did you ever express an opinion or a belief
8 about whether or not he could do it?
9 A I don't recall.
10 Q Do you have an opinion about whether or not
11 building a second dwelling on the property turns it into a
12 subdivision?
13 A I don't have an opinion, no.
14 Q Do you have a belief about it?
15 A No.
16 Q Have you ever expressed anything about it?
17 A I might have.
18 Q What makes you think you might have?
19 A Because of what's in the Sewage Facility Act.
20 Q What's in the Sewage Facility Act?
21 A That if there's more than one dwelling on a
22 property, it constitutes an equivalent subdivision. And I
23 may have said that, I don't know.
24 Q You may have said that when?
25 A I don't know. You asked me if I had a belief

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1 or I had an understanding and that's what I understand.
2 Q And I don't want to use the wrong word. If I
3 say an opinion or a belief and you want to call it something
4 else like an understanding, then you should just tell me
5 that because I'm just trying to --
6 MR. SHERR: No, you should answer her
7 questions.
8 BY MS. MONTGOMERY:
9 Q And if you don't understand my question
10 correctly and you could answer if it was better stated, you
11 should tell me that, okay?
12 MR. SHERR: If you don't understand her
13 question, ask her to clarify.
14 THE WITNESS: All right.
15 BY MS. MONTGOMERY:
16 Q So I've asked you some questions about whether
17 or not you have a belief about certain things so I'm going
18 to back up and ask you if you have an understanding about
19 certain things, okay?
20 A I have an understanding.
21 Q You have an understanding --
22 MR. SHERR: Let her ask the questions.
23 BY MS. MONTGOMERY:
24 Q You just said you have an understanding. What
25 do you have an understanding about?

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1 A You have to ask me the question again.
2 Q Okay. Do you have an understanding as to
3 whether or not Mr. Corneal can build an additional house on
4 his property?
5 A I do.
6 Q And what is your understanding?
7 A From the Sewage Facility Act, if there's more
8 than one property on an existing plot of ground, it's an
9 equivalent subdivision.
10 Q Well, then do you have an understanding as to
11 whether or not Mr. Corneal can subdivide his property?
12 A Anybody can subdivide their property.
13 Q Did you ever discuss this equivalent
14 subdivision idea with Larry Newton?
15 A I don't understand what you're asking me.
16 Q Did you ever discuss your understanding of
17 what constitutes an equivalent subdivision with Larry
18 Newton?
19 A I don't recall.
20 Q Did you ever discuss it with the township
21 supervisors?
22 A I probably did.
23 Q And what makes you think you probably did?
24 A Because the subject comes up by land owners so
25 we probably did.

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| <p style="text-align: right;">110</p> <p>1 MS. MONTGOMERY: I think we need to take a 2 break for a minute. 3 (Luncheon recess taken.) 4 MR. SHERR: Counsel for plaintiff has asked me 5 to repeat my statement yesterday with respect to the 6 30(b)(6) notice. The 30(b)(6) notice stated the subject 7 matter as all persons who -- or a person who has knowledge 8 or information regarding matters relating to the defense of 9 this claim. 10 In that that designation did not reasonably -- 11 with reasonable particularity state the matters on which 12 these admonitions are requested, we were objecting to that 13 designation and to the extent that -- to the extent of the 14 broadness of that designation, for the time being and 15 subject to that objection, we are designating all of these 16 witnesses as those who have knowledge of the matter or the 17 defense. 18 MS. MONTGOMERY: For the record, I did not ask 19 Mr. Sherr to repeat his statement on the record. I asked 20 him to tell me off the record are all the witnesses 30(b)(6) 21 witnesses because that's what he indicated yesterday. I was 22 asking if he was sticking with that position and I believe 23 that what you said is yes, all the witnesses are 30(b)(6) 24 witnesses; is that correct? 25 MR. SHERR: I've made my statement.</p> | <p style="text-align: right;">112</p> <p>1 (Order produced and marked as Wirth Exhibit 2 No. 8.) 3 BY MS. MONTGOMERY: 4 Q Miss Wirth, have you seen this document 5 before? 6 A No. 7 Q Miss Wirth, were you informed by anybody that 8 the witnesses in this case were to be sequestered for 9 purposes of their deposition testimony? 10 A Yesterday I was. 11 Q Yesterday you were informed by who? 12 A You. 13 Q Do you know what sequestration means? 14 A We were not allowed to be in the room. 15 Q Are you aware that you're not supposed to be 16 in the room with the other deponents? 17 A I am now, yeah. 18 Q Well, I shouldn't say that. You're not 19 supposed to be in the room with the other deponents while 20 they're being -- while they're giving testimony, correct? 21 A Yes. 22 Q Have you discussed your deposition testimony 23 with anybody since this morning? 24 A No. 25 Q Have you discussed anybody else's deposition</p> |
| <p style="text-align: right;">111</p> <p>1 MS. MONTGOMERY: It's a simple yes or no 2 question. 3 MR. SHERR: Okay. 4 MS. MONTGOMERY: Okay, is this witness a 5 30(b)(6) witness? 6 MR. SHERR: I've made my statement. 7 MS. MONTGOMERY: Is this witness a 30(b)(6) 8 witness, Tony? It's not a game. Is this witness a 30(b)(6) 9 witness? 10 MR. SHERR: I'm not playing a game. I've made 11 my statement. If you would like to -- if you would like to 12 make a note of a particular designation, then I will tell 13 you particularly, but I can't do that based on the broadness 14 of the designation. So, therefore, I'm sticking by my 15 statement. 16 MS. MONTGOMERY: Are you sticking by the 17 statement that you put on the record yesterday morning? 18 MR. SHERR: Sure. 19 MS. MONTGOMERY: Okay, fine. Thank you. 20 BY MS. MONTGOMERY: 21 Q You're still under oath. Miss Wirth, I'm 22 going to show you a document that was previously marked 23 yesterday as an exhibit. We're going to mark it again today 24 as Wirth Exhibit 8 and I'm going to ask you to look at it 25 for me, please.</p> | <p style="text-align: right;">113</p> <p>1 testimony with anybody since yesterday? 2 A No. 3 Q Do you understand that you're not supposed to 4 discuss your deposition testimony with any of the other 5 deponents? 6 A Yes. 7 Q Until all the depositions are finished? 8 A Yes. 9 Q Have you complied with that? 10 A Yes. 11 Q Have you been in a room with any of the other 12 deponents in a situation where you could discuss your 13 deposition testimony since this order was entered yesterday? 14 A In a room, no. 15 Q In any situation? 16 A Yes. 17 Q What was that situation? 18 A It was in a car. 19 Q Who did you have lunch with? 20 A Tom Wilson. 21 Q Did you discuss your deposition testimony with 22 Mr. Wilson? 23 A No. 24 Q You had lunch with Tom Wilson today, though, 25 right?</p> |

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1 A Yes.
2 Q Was anybody else present?
3 A No.
4 Q Thank you. I'm going to show you a document
5 that we will now mark as Wirth Exhibit 9 and ask you to look
6 at it and identify it for me, if you can.
7 MS. MONTGOMERY: Tony, do you have another
8 copy of this document?
9 (Discussion held off the record.)
10 (Subdivisions reviewed by HCPC produced and
11 marked as Wirth Exhibit No. 9.)
12 BY MS. MONTGOMERY:
13 Q Did you have occasion to discuss with any of
14 the supervisors or the sewage enforcement officer, Mr.
15 Parks, bringing documents to their depositions? And I'm
16 talking about before the order was entered yesterday.
17 A **Bringing documents down?**
18 Q To the deposition.
19 A No.
20 Q Did you tell anybody not to bring documents to
21 the deposition?
22 A **No, I did not.**
23 Q Did anybody tell you not to bring documents to
24 the deposition?
25 A No.

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1 Q Then just to make sure that I've asked the
2 questions as clearly as possible, did you discuss with the
3 supervisors whether or not you ought to bring any documents
4 to the deposition?
5 A **I honestly don't think we ever did.**
6 Q What's the box number that you receive
7 township mail at?
8 A **389-A.**
9 Q And your home box number?
10 A **390.**
11 Q We're back with Wirth Exhibit 9. Have you had
12 a moment to look at that?
13 A Yes.
14 Q Do you recognize the document?
15 A **Yes, I do.**
16 Q Did you prepare it?
17 A **No, I did not.**
18 Q Do you know whose handwriting that is?
19 A **I have no idea whose handwriting it is.**
20 Q Do you know who prepared it?
21 A **I know where it came from.**
22 Q Where did it come from?
23 A **Huntingdon County Planning Commission.**
24 Q And did it come from the commission in
25 response to a request from you?

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1 A **Yes, it did.**
2 Q So you put the request into whom, Richard
3 Stahl?
4 A **Yes, I did.**
5 Q How did you receive this document?
6 A **Just the way it is.**
7 Q Was it by fax?
8 A **By fax to me.**
9 Q From the Huntingdon County Planning
10 Commission?
11 A **Yes.**
12 Q When did you receive it?
13 A **Today is -- Monday or Tuesday, one or the**
14 **other.**
15 Q Just this Monday or Tuesday?
16 A **Yes.**
17 Q When did you --
18 A **It must have been Tuesday, right. I think. I**
19 **don't know.**
20 Q So exactly what did you ask for from Richard
21 Stahl that resulted in his production -- did he send you
22 this document?
23 A **Yes.**
24 Q Under a fax sheet from him?
25 A **Yes.**

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1 Q So we don't know whether this is his
2 handwriting or not, do we?
3 A **No.**
4 Q Do you assume that he's actually the one who
5 put this together, though?
6 A **I'm assuming that somebody in his office keeps**
7 **this -- this is out of a book, I believe, out of a --**
8 Q Okay. So you don't think that this document
9 was put together just for purposes of your request but
10 rather it was an existing document?
11 A **I assume that it's an existing document.**
12 Q From the Huntingdon County Planning Commission
13 offices?
14 A **Right.**
15 Q Exactly what did you ask for from Mr. Stahl
16 that led him to give you this document?
17 A **I asked him for a list of all subdivisions,**
18 **minor and major, that we have sent to him and when we**
19 **started to do it.**
20 Q Did you ask him when did we start to do it?
21 A **Yes.**
22 Q And what did he tell you?
23 A **He said as -- he's been there since 1980 and**
24 **they've been doing it ever since.**
25 Q Been sending all subdivisions to Huntingdon

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| <p style="text-align: right;">118</p> <p>1 County for their review?</p> <p>2 A Review, right.</p> <p>3 Q What is your understanding with respect to</p> <p>4 Huntingdon County's review of proposed subdivisions in</p> <p>5 Jackson Township?</p> <p>6 A What is my understanding?</p> <p>7 Q Yes.</p> <p>8 A I don't know what you mean.</p> <p>9 Q How much knowledge do you have about</p> <p>10 Huntingdon County Planning Commission's review of proposed</p> <p>11 subdivisions that you send to the county, to the commission?</p> <p>12 A I have no idea what they do.</p> <p>13 Q You have no idea what they do?</p> <p>14 A No, I've never been in the office to see what</p> <p>15 they do.</p> <p>16 Q Are you the one that sends the subdivisions?</p> <p>17 A No.</p> <p>18 Q I mean subdivision plans.</p> <p>19 A No, I do not.</p> <p>20 Q Who sends them?</p> <p>21 A The individuals take them in there. The</p> <p>22 people that are asking for the subdivision, they take them</p> <p>23 to Richard.</p> <p>24 Q Who tells them to take them to Richard?</p> <p>25 A The township does.</p> | <p style="text-align: right;">120</p> <p>1 Q Had you ever seen this document before --</p> <p>2 A No, I had not.</p> <p>3 Q -- before you received it from Mr. Stahl's</p> <p>4 office?</p> <p>5 A No.</p> <p>6 Q When did you ask the planning commission to</p> <p>7 send you this document?</p> <p>8 A When I was putting together the list of</p> <p>9 documents that you wanted for -- I thought it would be</p> <p>10 helpful.</p> <p>11 Q And when was that?</p> <p>12 A Last week.</p> <p>13 Q Now, these are all Jackson Township</p> <p>14 subdivisions, correct?</p> <p>15 A Yes.</p> <p>16 Q The ones that are listed on here. Okay, let's</p> <p>17 go through this list. Do you understand this list?</p> <p>18 A Yes.</p> <p>19 Q Do you understand the various categories on</p> <p>20 it?</p> <p>21 A Yes.</p> <p>22 Q So the 10/1/90 date in the left-hand corner,</p> <p>23 the first entry there --</p> <p>24 A Yes.</p> <p>25 Q -- does that refer to the date that the</p> |
| <p style="text-align: right;">119</p> <p>1 Q Who in the township tells them?</p> <p>2 A The supervisors or me.</p> <p>3 Q Are you generally aware of every subdivision</p> <p>4 plan that goes to the commission?</p> <p>5 A Generally.</p> <p>6 Q Do you believe that you're aware of every</p> <p>7 subdivision plan that's come into the township since you've</p> <p>8 been there?</p> <p>9 A Generally.</p> <p>10 Q Do you believe that you know whether or not</p> <p>11 every subdivision plan has been sent to the county since</p> <p>12 you've been there?</p> <p>13 A Yes.</p> <p>14 Q You think every one has?</p> <p>15 A To the best of --</p> <p>16 MR. SHERR: Object to the form of the</p> <p>17 question, asking this witness about other people's</p> <p>18 knowledge. You can answer.</p> <p>19 THE WITNESS: Yes.</p> <p>20 MS. MONTGOMERY: No, I asked her what she</p> <p>21 knows.</p> <p>22 BY MS. MONTGOMERY:</p> <p>23 Q I'm asking you what you know. Do you believe</p> <p>24 that every one has been sent?</p> <p>25 A To the best of my knowledge.</p> | <p style="text-align: right;">121</p> <p>1 subdivision was approved or what?</p> <p>2 A I don't know. I said I understand that. I</p> <p>3 understand the information that's on here, but I don't know</p> <p>4 why it says 10/1/90 there. I don't know if it's the date</p> <p>5 they received it or the date they reviewed it. That I don't</p> <p>6 know.</p> <p>7 Q Are these all requested subdivision plans or</p> <p>8 are some approved, some not approved and is it just all the</p> <p>9 subdivision plans that have been submitted; is that what</p> <p>10 this is?</p> <p>11 A Yes.</p> <p>12 Q To the commission?</p> <p>13 A Yes.</p> <p>14 Q Did you actually go down this list and read it</p> <p>15 at any time?</p> <p>16 A I've looked at it.</p> <p>17 Q In looking at it, do you know whether there</p> <p>18 are any subdivision plans that have been submitted to</p> <p>19 Jackson Township that aren't on this list?</p> <p>20 A Not to the best of my knowledge.</p> <p>21 Q Do you keep your own list of subdivision</p> <p>22 plans?</p> <p>23 A No, I do not.</p> <p>24 Q Well, do you keep your own file on subdivision</p> <p>25 -- proposed subdivisions --</p> |

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| <p style="text-align: right;">122</p> <p>1 A Yes.</p> <p>2 Q -- submitted -- can I finish, please.</p> <p>3 A I'm sorry.</p> <p>4 Q Submitted to Jackson Township.</p> <p>5 A Yes, I do.</p> <p>6 Q In what form do you keep that file?</p> <p>7 A Just the way it comes to me.</p> <p>8 Q Do you keep a separate folder for each one?</p> <p>9 A No.</p> <p>10 Q Something like that?</p> <p>11 A No, they're all in a drawer.</p> <p>12 Q Just all in one big drawer?</p> <p>13 A Right.</p> <p>14 Q Are they organized by date?</p> <p>15 A They are.</p> <p>16 Q That's how they're organized. They're not</p> <p>17 organized by alphabetical order or anything?</p> <p>18 A No, by date.</p> <p>19 Q By date, okay. Typically what does a</p> <p>20 subdivision plan look like?</p> <p>21 A It's a plot plan similar to what we have here.</p> <p>22 Q Is there any sort of front page application or</p> <p>23 anything like that?</p> <p>24 A There's usually an application. There's a</p> <p>25 project narrative, there's septic information, there's a</p> | <p style="text-align: right;">124</p> <p>1 Q Have you received any subdivision -- proposed</p> <p>2 subdivisions that utilize that form?</p> <p>3 A Yes, and they're the ones that are on this</p> <p>4 list.</p> <p>5 Q Since July 2000?</p> <p>6 A Yes.</p> <p>7 Q So that would be six of them --</p> <p>8 A Yes.</p> <p>9 Q -- correct? So they all have front pages that</p> <p>10 you could produce to us just the front page, right?</p> <p>11 A Yes.</p> <p>12 Q Now, when Jackson Township approves a</p> <p>13 subdivision, is there any sort of separate form that you</p> <p>14 guys have come up with that indicates approval?</p> <p>15 A We sign on the form, on the plot plan.</p> <p>16 Q Now, I think, you know, we've heard testimony</p> <p>17 in this case -- I'll represent to you that we've heard</p> <p>18 testimony in this case that there were certain proposed</p> <p>19 subdivisions that had been submitted at the time that the</p> <p>20 township put its moratorium in place; is that correct?</p> <p>21 A Yes.</p> <p>22 Q Do you recall which --</p> <p>23 A Yes.</p> <p>24 Q -- those were? Which ones?</p> <p>25 A Glenn Hawbaker and Norman Davis, Harold and</p> |
| <p style="text-align: right;">123</p> <p>1 topo area either on or attached to it.</p> <p>2 Q If there's an application, is there like a</p> <p>3 state form application or something that they fill out that</p> <p>4 is sort of a cover application for all of these --</p> <p>5 A There is now.</p> <p>6 Q There is now?</p> <p>7 A It's not a state form.</p> <p>8 Q What is it?</p> <p>9 A It's in the subdivision ordinance.</p> <p>10 Q It's in the Jackson --</p> <p>11 A It's the application for subdivision.</p> <p>12 Q Well, let me ask you this: In the Jackson</p> <p>13 Township subdivision ordinance there's an application?</p> <p>14 A Correct.</p> <p>15 Q Prior to the application was there some sort</p> <p>16 of a form, initial form that people filled out in submitting</p> <p>17 a proposed subdivision?</p> <p>18 A No.</p> <p>19 Q Was there any sort of a cover sheet or</p> <p>20 anything like that that would identify it or --</p> <p>21 A Whatever the engineer had on there that came</p> <p>22 to us is what we had.</p> <p>23 Q Now, I take it that the form has been in place</p> <p>24 since July 2000?</p> <p>25 A Yes.</p> | <p style="text-align: right;">125</p> <p>1 Norman Davis.</p> <p>2 Q Glenn Hawbaker?</p> <p>3 A Yeah, Glenn O. Hawbaker and Carolyn McGraw and</p> <p>4 then Norman and Harold Davis.</p> <p>5 Q So what happened to those proposed</p> <p>6 subdivisions during the period of time that the moratorium</p> <p>7 was in place?</p> <p>8 A Nothing.</p> <p>9 Q What did you do with the actual documents that</p> <p>10 were submitted to you?</p> <p>11 A They -- they never submitted them. They came</p> <p>12 to us and asked us if they could do it and we told them we</p> <p>13 weren't submitting them and they have -- they kept their</p> <p>14 documents till July.</p> <p>15 Q And then they resubmitted them to you?</p> <p>16 A Yes, they did.</p> <p>17 Q And then they submitted them also to the</p> <p>18 Huntingdon County Planning Commission?</p> <p>19 A Yes. I don't know whether they submitted them</p> <p>20 before that to the county. I don't know when they did that.</p> <p>21 Q What about the ones that are after the Davis</p> <p>22 application? I can't really read that writing. Do you</p> <p>23 recognize that?</p> <p>24 A That's Keller.</p> <p>25 Q Was that subdivision first proposed after --</p> |

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| <p style="text-align: right;">126</p> <p>1 A No.</p> <p>2 Q -- the ordinance was in place?</p> <p>3 A No, it was -- I'm sorry. Repeat your</p> <p>4 question.</p> <p>5 Q Was that subdivision first proposed after the</p> <p>6 ordinance was in place?</p> <p>7 A Yes.</p> <p>8 Q Do you recall, is 9/27/00 when it was first--</p> <p>9 A I don't recall if that's the exact date, but</p> <p>10 it's around that time.</p> <p>11 Q What's the next one say? David Simpson?</p> <p>12 A Oh, yeah, David Simpson.</p> <p>13 Q And the following one is Overhill, LLC?</p> <p>14 A Yes.</p> <p>15 Q And the following one is Darlene --</p> <p>16 A Sunderland.</p> <p>17 Q Sunderland. Now, have each of these proposed</p> <p>18 subdivisions been sent to the Huntingdon County Planning</p> <p>19 Commission?</p> <p>20 A Yes, they have.</p> <p>21 Q Have they each been approved?</p> <p>22 A Yes.</p> <p>23 Q All of them?</p> <p>24 A Yes.</p> <p>25 Q We have one right before this Corneal entry.</p> | <p style="text-align: right;">128</p> <p>1 Q Koch subdivision, was that approved?</p> <p>2 A Yes.</p> <p>3 Q If you look down over this list of</p> <p>4 subdivisions on the first page of this document, starting</p> <p>5 with the Kenneth Miller, Kenwood Development and ending with</p> <p>6 the one on the bottom -- I can't read that.</p> <p>7 A Greenwood Furnace.</p> <p>8 Q Were all of these subdivisions approved to</p> <p>9 your knowledge?</p> <p>10 A Yes.</p> <p>11 Q Were any of them disapproved at any time to</p> <p>12 your knowledge?</p> <p>13 A I don't -- I don't remember.</p> <p>14 Q I mean, was there any initial disapproval and</p> <p>15 then a later approval?</p> <p>16 A There could be initial disapproval of all</p> <p>17 these.</p> <p>18 Q But you don't know whether any of them were or</p> <p>19 you do know?</p> <p>20 A I do know. There's a couple here.</p> <p>21 Q Which?</p> <p>22 A Sunderland.</p> <p>23 Q That's on the back page, the last one?</p> <p>24 A Yeah, I do know that.</p> <p>25 Q And why was that one initially disapproved?</p> |
| <p style="text-align: right;">127</p> <p>1 It says --</p> <p>2 A Lelia Isett.</p> <p>3 Q Lelia Isett?</p> <p>4 A Um-hum.</p> <p>5 Q Was that subdivision plan approved?</p> <p>6 A Yes.</p> <p>7 Q What about -- what does that say, Jordan</p> <p>8 Conrad?</p> <p>9 A Yes.</p> <p>10 Q Was that approved?</p> <p>11 A Yes.</p> <p>12 Q Going backwards now, Jos E. and Pauline Baker,</p> <p>13 was that approved?</p> <p>14 A That one was submitted twice.</p> <p>15 Q Why was it submitted twice?</p> <p>16 A It was just what they did. They were going to</p> <p>17 build and then they didn't and then they did.</p> <p>18 Q Was it approved?</p> <p>19 A Yes.</p> <p>20 Q How about this Kenwood subdivision?</p> <p>21 A Yes.</p> <p>22 Q Was that approved?</p> <p>23 A Yes.</p> <p>24 Q The Koch -- oh, is that the Koch?</p> <p>25 A Yeah, Koch.</p> | <p style="text-align: right;">129</p> <p>1 A It wasn't drawn to scale. And I think --</p> <p>2 you're going to have to ask Tom that, but I think it had</p> <p>3 something to do too with there was a bridge over a stream on</p> <p>4 the property and it had something to do with that bridge and</p> <p>5 the stream. And I don't remember what it was, but I know</p> <p>6 that was one that he did what he had to do and came back.</p> <p>7 Q Now, on the Sunderland property, that's 85</p> <p>8 acres, 85 plus acres divided --</p> <p>9 A Oh, I'm sorry. It was Simpson, is the one I</p> <p>10 was talking about with the bridge.</p> <p>11 Q Okay. Well, let's look. On the Simpson</p> <p>12 property it's 107 acres, right?</p> <p>13 A Yes.</p> <p>14 Q Divided into two lots?</p> <p>15 A Right.</p> <p>16 Q Do you know what's going to happen on those</p> <p>17 two lots?</p> <p>18 A One -- it's a hunting camp and they're</p> <p>19 separating the hunting camp and David Simpson's property</p> <p>20 where he's going to build a house.</p> <p>21 Q What about the Overhill, LLC?</p> <p>22 A That's a farm they bought in Ennisville and I</p> <p>23 don't know what they're doing there. I mean, they're</p> <p>24 building -- it was a land development. It wasn't a -- oh, I</p> <p>25 know. I do know. There's a farmhouse there and they built</p> |

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1 a log house and they had two dwellings on that property. So
2 that's why they did that.
3 Q So that's why they subdivided it?
4 A They did a land development.
5 Q A land development. A land development plan
6 you mean?
7 A Yes.
8 Q So when did they build the log house?
9 A I don't know if -- I don't know if it's built
10 yet. I don't know. That's -- they're working -- I don't
11 know. I can't see that from the -- I don't know.
12 Q So underneath lots it says one lot, second
13 dwelling.
14 A Yes, it has a farmhouse there.
15 Q Let's see, and then the Sunderland property,
16 do you know what the plans are for that place?
17 A That's -- a father is dividing off the ground
18 for one of the boys and I don't know what he's going to do
19 with the other part.
20 Q Is there a dwelling on that property?
21 A Yes, there is a dwelling on that property.
22 Q Is there more than one?
23 A No.
24 Q There's one house on it?
25 A Um-hum.

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1 Q He's going to divide it and build on the other
2 half?
3 A He said he doesn't know what he's going to do
4 with it. He's giving the son the house and some acreage and
5 the rest of it he's not sure what he's going to do with it.
6 Q Do you know if he has any plans to subdivide?
7 A I asked him that and he does not know.
8 Q Now, let's see, there's a -- W. Thomas Wilson,
9 who is that?
10 A Yes.
11 Q This is on the first page, 9/3/97.
12 A That's our supervisor.
13 Q He's your township supervisor?
14 A Yes.
15 Q And he submitted a subdivision plan for 12
16 acres, correct?
17 A Yes.
18 Q To divide into three lots?
19 A Yes, that's what it says.
20 Q And what is on that property?
21 A His shop and the next property is his son's
22 house and I think -- and the next one -- I'm not sure if
23 there's anything in between there or not, I don't know, and
24 then there's a -- the other boy has a trailer. They're all
25 along there.

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1 Q Now, when he subdivided, did he build anything
2 after he subdivided?
3 A (Witness shook her head negatively.)
4 Q Everything was on there and they just broke it
5 up?
6 MR. SHERR: You have to answer out loud.
7 THE WITNESS: I'm sorry.
8 MR. SHERR: That's okay.
9 THE WITNESS: No, he did not build anything on
10 it. That was in '97. His son had a house that he had
11 started and I'm not sure whether it was completed then or
12 not. I don't remember that, but it is there now. There's a
13 house and his shop and a trailer.
14 BY MS. MONTGOMERY:
15 Q Are there any other township officials or --
16 you know, either supervisors or former supervisors or sewage
17 enforcement officers or anything like that on this list of
18 individuals who have sought subdivisions in Jackson
19 Township?
20 A Not that I see.
21 Q Who's Overhill, LLC?
22 A It's Henwood. Jerry and Tom Henwood, I
23 believe, from somewhere in -- near Philadelphia. It's a --
24 they're either going to or have built a place where they're
25 going to raise game birds. That's all I can tell you.

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1 Q I see there's another Hawbaker on this --
2 5/5/98.
3 A Okay, that's Monty.
4 Q A different Hawbaker than the other one?
5 A Daughter and son-in-law.
6 Q So they're related to the Glenn and Barbara
7 Hawbaker, correct?
8 A That's correct.
9 Q Are those contiguous pieces of property?
10 A No.
11 Q Are they close to each other?
12 A No.
13 Q I think you testified that the subdivision
14 ordinance had been under consideration for at least two
15 years which takes you back to the summer of 1998, correct?
16 A Somewhere in there. I cannot tell you the
17 exact date we started it.
18 Q Now, I see -- if we start say -- let's just
19 take it -- let's take it from September 30th, 1998 and go
20 down to 2/10/2000 -- I'm sorry, 12/13/1999, okay?
21 A Okay.
22 Q Were any of those proposed subdivisions
23 rejected because there was going to be a subdivision
24 ordinance put in place?
25 A No.

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1 Q Was there any moratorium placed on
2 subdivisions when those people came and asked you if they
3 could subdivide?
4 A No.
5 Q Now, during the period of time that the
6 moratorium was in place, did any of the subdivision plans go
7 to the Huntingdon County Planning Commission to your
8 knowledge?
9 A **The only two that I know is Mr. Corneal's.**
10 Q Mr. Corneal's went there?
11 A **And I can't say about Hawbakers and Davis.**
12 **I'm not sure what they did, when they took them in there.**
13 **(Discussion held off the record.)**
14 **BY MS. MONTGOMERY:**
15 Q Now, when an individual takes their
16 subdivision plan to the Huntingdon County Planning
17 Commission, do you get some sort of notice from the
18 commission?
19 A **We get a letter. When they've reviewed it, we**
20 **get a letter.**
21 Q When they've reviewed it?
22 A **Right.**
23 Q Do you keep copies of those letters?
24 A **They should all be attached to the document**
25 **when we approve it.**

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1 Q Did you provide us with copies of those
2 letters?
3 A **No, you didn't ask me for that.**
4 Q Let me ask you this: Did you receive any
5 correspondence from any government agency, you personally as
6 a -- in your -- I shouldn't say personally. You in your
7 capacity as township secretary and treasurer receive
8 correspondence from any government agency about the
9 Corneal's property?
10 A **Are you talking about the county planning**
11 **commission?**
12 Q Any government agency, Army Corps of
13 Engineers, Commonwealth of Pennsylvania, DEP.
14 A **I did not receive anything from the Army Corps**
15 **of Engineers, no.**
16 Q Anybody else?
17 A **The county planning commission and soil**
18 **conservation commission, Huntingdon County Soil**
19 **Conservation, whatever that is.**
20 Q Did you provide all of the documents that --
21 A **Yes, I did.**
22 Q -- you had in your possession from any
23 government agency?
24 A **Excuse me. Yes, I did.**
25 Q What about -- did you have any correspondence

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1 at all related to the Hewetts?
2 A **No.**
3 Q Did you get a bridge permit from a government
4 agency regarding the Corneal property?
5 A **No, I did not.**
6 Q Let me ask you this: When you say you have an
7 application for a proposed subdivision, right?
8 A **Yes.**
9 Q And you keep that in a file, right?
10 A **Right.**
11 Q What do you consider to be part of the
12 application?
13 A **When?**
14 Q At any time. If you have a completed
15 subdivision file, what all is in that file?
16 A **From the time the ordinance was in or from**
17 **before because --**
18 Q From before.
19 A **From before there was everything -- the same**
20 **as after except for the application.**
21 Q Except for the application form, okay. So in
22 order for you to -- in order for the township to approve a
23 proposed subdivision it has to go to the county first,
24 right?
25 A **No, it can come to the meeting first. It can**

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1 **be on the agenda and it can come to the meeting first, but**
2 **you're going to have to send it to the county.**
3 Q That wasn't exactly my question but -- so I'll
4 just repeat it. In order for you to actually issue final
5 approval for the township to do it, it has to have gone to
6 the county first, correct?
7 A **It has to have gone to the county but not**
8 **first. There's a -- you know --**
9 Q Well, it has to have gone to the county prior
10 to you issuing approval?
11 A **That's right.**
12 Q That's what I'm trying to say.
13 A **Okay, that's right.**
14 Q So part of the whole subdivision file is going
15 to include any correspondence that you got from the county,
16 correct?
17 A **Right.**
18 Q Do you consider what the county has to say as
19 approval or disapproval in connection with a proposed
20 subdivision?
21 A **That's not for me to do. I mean, I don't**
22 **approve or not approve subdivisions.**
23 Q Let me put it this way: If the supervisors
24 are going to look at a proposed subdivision plan and decide
25 whether or not they're going to approve it, right?

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|---|---|
| <p style="text-align: right;">138</p> <p>1 A Okay.</p> <p>2 Q They're going to look and see whether the</p> <p>3 county planning commission has reviewed it first?</p> <p>4 A Yes.</p> <p>5 Q What do they see in order to tell them that</p> <p>6 the county planning commission has reviewed it? What do</p> <p>7 they see in the file?</p> <p>8 A A letter.</p> <p>9 Q A letter from the county planning commission?</p> <p>10 A That's exactly right.</p> <p>11 Q That says we've received it and we're</p> <p>12 reviewing it?</p> <p>13 A That says we've received it and reviewed it.</p> <p>14 Q So it's part of the approval process, correct,</p> <p>15 for the supervisors to see what the county planning</p> <p>16 commission has to say?</p> <p>17 A That's right.</p> <p>18 Q I'm going to show you a document that we have</p> <p>19 -- we're going to mark as Wirth Exhibit 10.</p> <p>20 (Letter dated 4/20/00 produced and marked as</p> <p>21 Wirth Exhibit No. 10.)</p> <p>22 (Discussion held off the record.)</p> <p>23 MS. MONTGOMERY: We'll mark the February 24th</p> <p>24 one as Wirth 11.</p> <p>25 (Letter dated 2/24/00 produced and marked as</p> | <p style="text-align: right;">140</p> <p>1 Q Do you know when Mr. Corneal submitted his</p> <p>2 proposed subdivision to Huntingdon County?</p> <p>3 A I only know what's on here. After our first</p> <p>4 meeting it says 2/10 and then 4/11.</p> <p>5 Q Do you understand him to have submitted the</p> <p>6 subdivision then twice --</p> <p>7 A Yes.</p> <p>8 Q -- to the commission? Did you discuss the</p> <p>9 moratorium with the planning commission?</p> <p>10 A Probably.</p> <p>11 Q Do you recall who you discussed it with?</p> <p>12 A I would only discuss it with Richard Stahl.</p> <p>13 Q Did you ask him for any advice about whether</p> <p>14 or not you could put in a moratorium?</p> <p>15 A I don't know whether we talked to him about</p> <p>16 that or not. I probably asked him for procedures, but I</p> <p>17 don't know whether I did or not.</p> <p>18 Q Did you ever discuss the township's</p> <p>19 disapproval of Mr. Corneal's sewage modules with Larry</p> <p>20 Newton?</p> <p>21 A I probably told him that we weren't going to</p> <p>22 sign them.</p> <p>23 Q Did you ask him for any guidance in connection</p> <p>24 with whether or not you should sign them?</p> <p>25 A I don't know whether I asked him for guidance</p> |
| <p style="text-align: right;">139</p> <p>1 Wirth Exhibit No. 11.)</p> <p>2 BY MS. MONTGOMERY:</p> <p>3 Q Let's take Wirth Exhibit 11 first. I'm sorry</p> <p>4 to take them out of order, but that's the way it happens.</p> <p>5 Are you familiar with that document, Miss Wirth?</p> <p>6 A Pardon? I only have one. I have February 24.</p> <p>7 Q That is going to be Exhibit 11 so you have</p> <p>8 it.</p> <p>9 A Okay, thank you.</p> <p>10 Q Are you familiar with that document?</p> <p>11 A Which one are we talking -- the first one?</p> <p>12 Q February 24th.</p> <p>13 A Yes, I am.</p> <p>14 Q Is this the standard letter that you get back</p> <p>15 from the Huntingdon County Planning Commission when a</p> <p>16 proposed subdivision is submitted to the commission?</p> <p>17 A Yes, it is.</p> <p>18 Q Now, typically for each submission do you get</p> <p>19 just one letter from them or do you -- would you later get</p> <p>20 another letter from them?</p> <p>21 A If it has to go back and there's a</p> <p>22 resubmission, we get another letter.</p> <p>23 Q Now, do you get this letter immediately upon</p> <p>24 submission?</p> <p>25 A No, it's after review.</p> | <p style="text-align: right;">141</p> <p>1 or not.</p> <p>2 Q Do you remember what you talked to him about</p> <p>3 in connection with Mr. Corneal's sewage module?</p> <p>4 A I'd probably do -- whatever happened at the</p> <p>5 meeting I would let Larry know and that's what I would do.</p> <p>6 Q So you informed Larry that the township</p> <p>7 supervisors were not going to sign Mr. Corneal's sewage</p> <p>8 module?</p> <p>9 A Yes, I probably did -- I know I did.</p> <p>10 Q Now, there were a couple different occasions</p> <p>11 when the township refused to sign the sewage module,</p> <p>12 correct?</p> <p>13 A Are we -- what period of time are we talking</p> <p>14 here?</p> <p>15 Q I would say the period of time before and</p> <p>16 after the moratorium was put in place.</p> <p>17 A But there's also sewage modules on the board</p> <p>18 now so there's different -- there's different issues here.</p> <p>19 Q Right. Really I'm just asking you weren't</p> <p>20 there a couple different times when the township has been</p> <p>21 presented with Mr. Corneal's sewage modules and they have</p> <p>22 not been signed, right? Have not been signed off on by the</p> <p>23 township, correct?</p> <p>24 A I think we need to be specific about that.</p> <p>25 MR. SHERR: Then go ahead and do that.</p> |

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|---|---|
| <p style="text-align: right;">142</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q What is it that you need to know?</p> <p>3 A You need to give me a time frame.</p> <p>4 Q Well, it's a more general question. Did Mr.</p> <p>5 Corneal submit sewage modules for the township's approval</p> <p>6 once or more than once?</p> <p>7 A More than once.</p> <p>8 Q That's all I needed to know. How many times?</p> <p>9 A Twice.</p> <p>10 Q Did you discuss both of those submissions with</p> <p>11 Larry Newton?</p> <p>12 A I also want to clarify submissions because the</p> <p>13 first ones were never handed to the supervisors, okay. He</p> <p>14 had them at a meeting, but he never left his sewage modules</p> <p>15 with us. They were never submitted to us because he said</p> <p>16 then he wasn't subdividing and he wanted a privy permit.</p> <p>17 Q Well, I think you testified a little</p> <p>18 differently earlier, but the record will speak for itself.</p> <p>19 Go ahead.</p> <p>20 A And the second ones we don't have yet. I</p> <p>21 don't think we do. Barry might have them. I don't have</p> <p>22 them.</p> <p>23 Q Did you discuss with Larry Newton the status</p> <p>24 of Mr. Corneal's sewage modules on both -- with respect to</p> <p>25 both submissions or attempted submissions?</p> | <p style="text-align: right;">144</p> <p>1 A No.</p> <p>2 Q Do you recall Mr. Corneal receiving a letter</p> <p>3 from the township -- from anybody within the township,</p> <p>4 officers, rejecting his application for anything?</p> <p>5 A He did get a letter from the township</p> <p>6 rejecting his building permit application.</p> <p>7 Q So you do recall that?</p> <p>8 A Yes. Now, what time frame are we talking</p> <p>9 about here because we're doing it again?</p> <p>10 Q Well, I'm talking about in the year 2000.</p> <p>11 A He did get a letter rejecting his building</p> <p>12 permit.</p> <p>13 Q Did you have any discussions with anybody</p> <p>14 within the township about his request for a building permit?</p> <p>15 A Me? I don't recall.</p> <p>16 Q You don't recall?</p> <p>17 A No, I don't.</p> <p>18 Q Do you recall receiving any letter from Mr.</p> <p>19 Corneal appealing his denial of a building permit?</p> <p>20 A I don't know if he sent it to us or Larry, but</p> <p>21 there was something.</p> <p>22 Q You do get the township's mail, right?</p> <p>23 A If it comes to me, I get it. If it goes to</p> <p>24 Larry, he'll fax it to me.</p> <p>25 Q What's the address that you get the township</p> |
| <p style="text-align: right;">143</p> <p>1 A Probably.</p> <p>2 Q So you kept him informed about the township's</p> <p>3 position with respect to the sewage modules?</p> <p>4 A I probably did.</p> <p>5 Q What about Mr. Corneal's proposed subdivision</p> <p>6 plan? Did you keep Mr. Newton informed about that?</p> <p>7 A I probably did.</p> <p>8 Q Did he tell you what you were doing was okay</p> <p>9 or wasn't okay?</p> <p>10 A I don't remember.</p> <p>11 Q Do you recall at any time a letter going to</p> <p>12 Mr. Corneal rejecting his sewage module?</p> <p>13 A Sewage modules?</p> <p>14 Q Yes, or his proposed subdivision from the</p> <p>15 township.</p> <p>16 A I don't recall if Larry wrote -- I don't</p> <p>17 recall if Larry wrote him a letter or not or -- I know we</p> <p>18 didn't write him a letter. I don't think we did.</p> <p>19 Q Do you recall Mr. Corneal asking for a</p> <p>20 hearing --</p> <p>21 A No.</p> <p>22 Q -- in connection with his property?</p> <p>23 A No.</p> <p>24 Q Do you recall Mr. Corneal asking for a hearing</p> <p>25 in connection with his building permit?</p> | <p style="text-align: right;">145</p> <p>1 mail at?</p> <p>2 A 389-A.</p> <p>3 Q And what's your address?</p> <p>4 A 390.</p> <p>5 Q Do you sometimes get mail at the other -- at</p> <p>6 the 390 post office box for the township?</p> <p>7 A It's not a post office box.</p> <p>8 Q Well, a postal box, right?</p> <p>9 A On occasion.</p> <p>10 Q Now, I don't know if you answered this</p> <p>11 question very -- and if I already asked it, I apologize, but</p> <p>12 did you have occasion to discuss with the township</p> <p>13 supervisors the denial of Mr. Corneal's building permit?</p> <p>14 A I'm sure we did talk about it.</p> <p>15 Q Do you know whether Mr. Corneal actually</p> <p>16 submitted an application for a building permit?</p> <p>17 A What time frame?</p> <p>18 Q In the year 2000.</p> <p>19 A Yes, he did because he sent it to me.</p> <p>20 Q He sent you an application for a building</p> <p>21 permit?</p> <p>22 A And checks, yeah.</p> <p>23 Q I'm sorry?</p> <p>24 A Yes, he did.</p> <p>25 Q Did you send us a copy of that application?</p> |

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1 A Was it on the list?
2 Q I'm sorry, the list of documents?
3 A Yes.
4 Q Well, I think it was.
5 A Well, then I must have sent it. If I didn't,
6 I didn't.
7 Q Well, then I'm just a little bit confused
8 because you had said earlier that all building application
9 permits -- applications for building permits go out to
10 the --
11 A They do go to David Van Dommelen.
12 Q So you don't keep them?
13 A No.
14 Q Why did this one come to you?
15 A Because Mr. Corneal sent it to me, either to
16 me or Larry.
17 Q Do they sometimes come to you?
18 A No.
19 Q Is that the only one you've ever gotten?
20 A Yes.
21 Q Well, did anybody ever inform you of whether
22 or not Mr. Corneal had requested a hearing on the denial of
23 his building permit?
24 A I do not ever remember hearing that before.
25 Q Typically if there's going to be a hearing on

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1 the denial of a building permit, where would that hearing be
2 held?
3 A I have no idea.
4 Q You've never been present at one?
5 A No.
6 Q Have you ever been present at any hearing that
7 the township supervisors have held when somebody wants to
8 appeal something that's been going on?
9 A No.
10 Q Were copies of the subdivision ordinance that
11 was passed on -- I think you said July 10th, 2000?
12 A It is the 10th.
13 Q It was the 10th that it was passed?
14 A Yes.
15 Q Were copies of that subdivision ordinance made
16 available to the public --
17 A Yes.
18 Q -- prior to it being -- how? Prior to it
19 being passed.
20 A I think it's in the paper. It was in the
21 library, in Larry's office, one in my office. It says that
22 in the ad somewhere, either in this one or the other ad he
23 had in. It was in the paper where they could be reviewed.
24 Q Did anybody come to your office to review it?
25 A No. Full text at the Daily News and at my

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1 office, yeah.
2 Q So you had copies available in your office for
3 the public to review?
4 A Yes.
5 Q When were those copies made available to the
6 public?
7 A I think there's -- I think there's a
8 regulation about when it had to happen.
9 MR. SHERR: That's not what she asked you.
10 She asked you when was it available.
11 THE WITNESS: I don't know.
12 MR. SHERR: Then that's your answer.
13 THE WITNESS: Yeah, I don't know.
14 BY MS. MONTGOMERY:
15 Q But they were going to be made public through
16 you, correct?
17 A Yes.
18 Q So is there anybody else who would know when
19 you made them public or put them in your office?
20 A I don't know.
21 Q Were the copies that you kept in your office
22 there for say more than a week?
23 A I don't know.
24 Q Did you at some point keep copies of a
25 proposed subdivision ordinance that was other than the

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1 subdivision ordinance that was eventually passed? If you
2 can hear that but --
3 A Tell me that again.
4 Q Okay. Did you at one point keep copies of a
5 proposed subdivision ordinance in your office that was
6 different than the one that was ultimately passed?
7 A No.
8 Q How many copies did you keep on file for the
9 public of the proposed subdivision ordinance?
10 A I think I had six.
11 Q Did you make the copies?
12 A No.
13 Q Who made the copies?
14 A I took them out to be done.
15 Q Where did you take them?
16 A Office Depot.
17 Q Office Depot. Did you submit them or did you
18 take them over there yourself and copy them?
19 A I left them do it.
20 Q You left them do it?
21 A Um-hum.
22 Q Did you keep an invoice for that?
23 A Sure.
24 Q So you have that invoice?
25 A Yes.

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1 Q Did you submit the ordinance to the county
2 planning commission?
3 A Yes.
4 Q When did you do that?
5 A Which time?
6 Q Well, why don't you tell me. Was there more
7 than one time?
8 A Yes.
9 Q When's the first time you submitted a proposed
10 ordinance to the county planning commission?
11 A I can't remember exactly. Sometime in the
12 fall.
13 Q In the fall of 2000 -- in the fall of 1999 I
14 mean?
15 A Um-hum.
16 MR. SHERR: You have to answer out loud.
17 THE WITNESS: Yes.
18 BY MS. MONTGOMERY:
19 Q Why was the subdivision ordinance submitted
20 twice to the county planning commission?
21 MR. SHERR: Object to the form of the
22 question. I don't know that she's testified that it was
23 twice. I think she testified that it was more than once.
24 BY MS. MONTGOMERY:
25 Q Was it more than once?

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1 A Yes, it was more than once.
2 Q Was it twice?
3 A It might have been more than that.
4 Q Can you remember if it was more than that?
5 A I know it was at least -- I know three times
6 at least. I can't tell you how many times.
7 Q Well, let me ask you this: Each time that it
8 was submitted was it a different ordinance in some way?
9 A It wasn't different. They had opinions and we
10 took them under consideration and we would make the changes.
11 Q Do you have records of that correspondence
12 going back and forth between you and the Huntingdon County
13 Planning Commission?
14 A I don't, no.
15 Q Who does?
16 A I would assume Richard does, but I'm not sure
17 of that.
18 Q If the ordinance --
19 MR. SHERR: Just for the record, Richard was
20 Richard Stahl?
21 THE WITNESS: Yes, I'm sorry.
22 BY MS. MONTGOMERY:
23 Q If the ordinance was submitted to the
24 Huntingdon County Planning Commission, how was it submitted?
25 A In document form.

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1 Q By mail?
2 A Hard copy.
3 Q Hard copy document form?
4 A I don't know if I took it in or mailed it. I
5 doubt if I mailed it. I probably dropped it off when I went
6 by one day.
7 Q Is it close by?
8 A No.
9 Q How far is it?
10 A Fifteen miles.
11 Q So you don't think you mailed it, you think
12 you drove it over there?
13 A I probably did. I have clients there.
14 Q Did you put a cover letter out with it?
15 A No.
16 Q Do you have some sort of a -- any application
17 form or any transmittal form of any sort that you sent with
18 it?
19 A No.
20 Q Would anybody else have dropped it off or
21 mailed it?
22 A They might have.
23 Q Well, whose job was it within the township to
24 see to it that it got to the Huntingdon County Planning
25 Commission?

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1 A It probably was mine.
2 Q Why do you say probably?
3 A Well, they -- whoever -- it's not close so
4 whoever's running goes.
5 Q Now, the final proposed subdivision ordinance
6 that was submitted to the Huntingdon County Planning
7 Commission, was that the subdivision ordinance that
8 eventually was passed --
9 A Yes.
10 Q -- by the township supervisors?
11 A Yes.
12 Q So it went up in one final last form,
13 Huntingdon County Planning Commission looked at it, you got
14 it back and then the township supervisors approved it?
15 A Yes.
16 Q Now, during this period of time that it was
17 being passed back and forth with the Huntingdon County
18 Planning Commission, was the ordinance also being presented
19 to the public and mentioned at the township meetings?
20 A I don't know how -- whether it was or not.
21 Q Do you know when you submitted the final
22 subdivision ordinance to the Huntingdon County Planning
23 Commission?
24 A After July the 10th.
25 Q After July the 10th, after you passed it?

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1 A Right.
2 Q Then you submitted it to them for what?
3 A They keep a copy for their review.
4 Q Well, prior to the time that you -- that the
5 supervisors approved the final subdivision ordinance, do you
6 know when you submitted it to the Huntingdon County Planning
7 Commission?
8 A June the 3rd, Saturday morning, around 10
9 o'clock I got the final revisions from Richard. I went to
10 his house to do it on a Saturday morning.
11 Q You mean you took it over to his house?
12 A No.
13 Q Well, my question was when did you submit it
14 to him.
15 A I don't know when I submitted it to him.
16 That's the last time that we talked about it.
17 Q Was June the 10th?
18 A June the 3rd.
19 Q Or June the 3rd. How do you recall that date
20 so well?
21 A I have it written down because it was a
22 Saturday and I wasn't happy about having to do it on a
23 Saturday. I had something else to do, but Richard was going
24 on vacation so I went.
25 Q Did the Huntingdon County Planning Commission

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1 Q Do you recall discussions about why the
2 moratorium was being put in place with the supervisors?
3 A No.
4 Q You don't recall any of those discussions?
5 A No.
6 Q Do you recall whether any discussions about
7 the purpose of the moratorium took place?
8 A No.
9 Q Now, we're going to go back for just a second
10 to this document that we marked as --
11 MS. THORP: It's 9.
12 BY MS. MONTGOMERY:
13 Q Wirth Exhibit 9 and I just want to make sure
14 that I understand that there were no other subdivision --
15 correct me if I'm wrong. There were no other subdivision
16 applications received by the township other than those on
17 this list?
18 A To the best of my knowledge.
19 Q Did you ever have a public hearing on the
20 moratorium?
21 A No.
22 Q Did you actually do a formal submission of the
23 moratorium to the county planning commission?
24 A No.
25 Q You just told them about it?

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1 submit comments to you in writing on the proposed
2 subdivision ordinance?
3 A He wrote in the column on the side and he
4 inserted things that he felt we should consider.
5 Q Did you submit those to us?
6 A I don't have them.
7 Q You didn't keep any copies of them?
8 A No.
9 Q Did you just throw them away?
10 A Yes.
11 Q Do you have all the successive drafts of the
12 proposed ordinance?
13 A No, I do not.
14 Q You just threw them away as well?
15 A I had no reason to keep them.
16 MR. SHERR: Just answer her questions.
17 THE WITNESS: No, I don't have them.
18 BY MS. MONTGOMERY:
19 Q Miss Wirth, do you recall whether you actually
20 suggested a moratorium to the township supervisors?
21 A I did not.
22 Q Did you ever suggest it to anybody?
23 A No.
24 Q Did you suggest it to Larry Newton?
25 A No.

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1 A To the best of my knowledge.
2 Q Do you know how you told them about it?
3 A No.
4 Q So if there was a formal submission you would
5 have been the one that would have been involved in preparing
6 it, correct?
7 A Yes, probably.
8 Q Let me just ask you this, and if I asked you
9 already I apologize, did the supervisors actually take a
10 vote with respect to the moratorium?
11 A I did testify to that.
12 Q And what was your testimony?
13 A You asked me if the supervisors voted and I
14 said -- I believe I said I don't recall whether -- normally
15 they do, they say -- I think that's what I said.
16 Q But you don't recall if they did?
17 A They normally do and I think that's what I
18 said.
19 Q Let's see, did you ever submit a copy of the
20 driveway -- the proposed driveway ordinance to the planning
21 commission?
22 A Yes, I did.
23 Q Did you also do the privy --
24 A Yes, I did.
25 Q When did you do that?

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1 A I don't recall.
2 Q Did you submit it after it was approved or
3 before, by the supervisors?
4 A I don't recall.
5 Q Did you discuss the driveway ordinance with
6 Larry Newton?
7 A Probably.
8 Q Why do you say probably?
9 A Because I think we submitted it to him for him
10 -- I'm trying to remember if we typed it or he typed it. I
11 don't remember.
12 Q What about the privy ordinance, did you submit
13 that to Larry Newton?
14 A The same thing, I don't know if he did it or I
15 did it.
16 Q Do you recall ever reviewing any subdivision
17 plan or drawing at all in connection with the Corneal
18 property?
19 A What time frame?
20 Q In the year 2000.
21 A Yes.
22 Q In what context was that?
23 A I think he was -- I think it was at the
24 meeting. We talked about that earlier today.
25 Q So at the meeting you recall actually looking

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1 not.
2 Q You mentioned that you thought you viewed a
3 subdivision plan in 2000, right?
4 A I thought what you asked me was did we look at
5 a plot plan.
6 Q Well, okay. What I said was a subdivision
7 plan or any other drawing.
8 A A drawing is what --
9 Q Right, that's what I said.
10 A We did look at a drawing.
11 Q Now, I think you said you thought you did that
12 at a supervisor's meeting?
13 A I'm not sure.
14 Q Where else would it have been?
15 A I'm not -- it came to us through Larry so I
16 don't know where we looked at it.
17 Q So Larry turned over to you at some point a
18 copy of a drawing for the proposed subdivision for the
19 Corneal's property?
20 A To the township he turned it over.
21 Q He turned it over to the township and you
22 reviewed it. Who did you review it with?
23 A I didn't review it, the supervisors reviewed
24 it.
25 Q Were you present when they reviewed it?

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1 at a subdivision plan?
2 A I'm not sure if we looked at it there. I'm
3 not sure. I don't know.
4 Q What about the year 1999?
5 A In '99, no.
6 Q What about this year?
7 A Yes.
8 Q In what context?
9 A With his lawyer Terry Williams.
10 Q You were present at that meeting?
11 A Yes.
12 Q And who else was present?
13 A All the supervisors, Barry Parks, Larry
14 Newton, Terry Williams and I think David Van Dommelen.
15 Q Why were you present?
16 A Why was I present?
17 Q Yes.
18 A Because I have to sign.
19 Q Because you have to sign the --
20 A I have to sign the plans.
21 Q You have to be one of the two people who signs
22 the plans?
23 A Yes, I have to sign them and seal them.
24 Q Did you keep minutes of that meeting?
25 A No, I -- it was in the courthouse. No, I did

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1 A Yes.
2 Q And so we're going to go back around again.
3 So in what context was that, just an informal meeting or
4 something?
5 A I don't remember. I don't remember when we
6 got it or when we reviewed it.
7 Q But you do remember that you got it from Larry
8 Newton?
9 A I said earlier today that I don't know whether
10 it came from Larry Newton or Simpson.
11 Q Did you discuss the subdivision -- the drawing
12 with Larry Newton?
13 A Probably.
14 Q Did the supervisors discuss the drawing with
15 Larry Newton?
16 A Probably.
17 Q Did you discuss whether or not to approve the
18 subdivision with Larry Newton?
19 A I don't know.
20 Q Did the supervisors discuss whether or not to
21 approve the subdivision with Larry Newton?
22 A I don't know.
23 Q Now, you testified earlier that I believe it
24 was at the February meeting that Mr. Corneal first came in
25 and asked the supervisors -- the February 2000 meeting he

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1 came in and asked the supervisors to sign his subdivision
2 plan, correct?
3 A I think that's the date, yeah. Yes.
4 Q And I believe you testified that they refused
5 to do so because they said there was a moratorium in place
6 as of January?
7 A Right.
8 Q Did they issue a written rejection of his
9 subdivision plan?
10 A No, I don't think so.
11 Q Do you recall Mr. Corneal asking for a copy of
12 a moratorium ordinance or resolution?
13 A He might have. I don't -- I don't know. He
14 might have.
15 Q Did you discuss with Larry Newton Mr.
16 Corneal's interest in seeing a copy of a moratorium
17 ordinance or resolution?
18 A I don't recall that.
19 Q Do you recall talking with Larry Newton about
20 whether you had to put that moratorium into a written form?
21 A I don't recall that either.
22 Q Do you recall whether the supervisors
23 discussed that with him?
24 A You'll have to ask them.
25 Q Was there an ordinance in place at any time

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1 '97. I'm not -- I don't know the date, but we do have an
2 ag. security ordinance.
3 Q But there wasn't any other ordinance that said
4 anything about subdividing at that time prior to this
5 subdivision ordinance?
6 A Ordinances you're talking about?
7 Q Yes.
8 A No.
9 Q What about any other document -- or I should
10 say any other sort of rule, regulation, resolution, anything
11 that would be a formal action of the supervisors?
12 A Act 537.
13 Q What's Act 537?
14 A Sewage Enforcement Act.
15 Q And you're saying what about that, that's the
16 -- something that was in place of how you do subdivisions
17 in the township?
18 A It states that you have to have an equivalent
19 subdivision if there's more than two buildings on a
20 property, two dwellings, and we testified to that this
21 morning.
22 Q So you're saying that was what you followed as
23 a subdivision ordinance, or something, or what are you
24 saying?
25 A Yes, we did.

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1 prior to the subdivision ordinance that you put in place on
2 July 10th, 2000?
3 A What kind of an ordinance?
4 Q Subdivision ordinance.
5 A No.
6 Q Was there any other ordinance in place?
7 A Yes.
8 Q What ordinance was that?
9 A Building permit ordinance.
10 Q The building permit ordinance, okay. When was
11 that passed?
12 A Long before my time. The date's in the back.
13 I don't know.
14 Q Other than the three ordinances that you
15 testified have been passed since you've been in place as the
16 township secretary and treasurer and other than this
17 building ordinance, are there other ordinances in the
18 township?
19 A No.
20 Q There's just those four that exist?
21 A I'm not sure if this -- this -- there is an
22 ordinance, I'm sorry. It's ag. security. We passed an ag.
23 security ordinance. I'm sorry, I forgot that.
24 Q When did you do that?
25 A It might be '95 or '96. Maybe not. Maybe

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1 Q Was it in writing somewhere that all
2 subdivision plans had to be submitted to the Huntingdon
3 County Planning Commission?
4 A Not to the best of my knowledge.
5 Q So it was just something that the supervisors
6 and you thought you ought to do, thought you ought to impose
7 on the public?
8 A It was done long before my time.
9 Q But it's not in writing anywhere?
10 A I don't know.
11 Q Do you recall Mr. Corneal submitting a revised
12 subdivision plan to the township?
13 A What time frame?
14 Q The year 2001.
15 A Yes.
16 Q Are you familiar with that document?
17 A I've seen it.
18 Q In what context did you see it?
19 A In the courthouse.
20 Q In the courthouse at a meeting?
21 A At a hearing.
22 Q At a hearing. What hearing was that?
23 A The township has -- went before the judge
24 asking for Mr. Corneal to comply with regulations in the
25 township.

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| | |
|--|---|
| <p style="text-align: right;">166</p> <p>1 Q What regulations?</p> <p>2 A Building permit regulations and subdivision</p> <p>3 ordinance and sewage.</p> <p>4 Q So you saw it there? Did you testify at</p> <p>5 that --</p> <p>6 A No.</p> <p>7 Q You just saw it in connection with that</p> <p>8 hearing?</p> <p>9 A Yes.</p> <p>10 Q Did you see it before the hearing as well?</p> <p>11 A No.</p> <p>12 Q Did you see it after the hearing?</p> <p>13 A It's in my office.</p> <p>14 Q It's in your office, okay.</p> <p>15 A You're talking about a plot plan?</p> <p>16 Q Yes.</p> <p>17 A It's in my office.</p> <p>18 Q When did you get it in your office?</p> <p>19 A I got it at the hearing that day. No, wait a</p> <p>20 minute. I got a copy at the hearing that day. I got a copy</p> <p>21 that day.</p> <p>22 Q You got a copy of it when?</p> <p>23 A At the hearing.</p> <p>24 Q And that's the first time?</p> <p>25 A To the best of my knowledge.</p> | <p style="text-align: right;">168</p> <p>1 MR. SHERR: She is not being evasive. Can you</p> <p>2 read back the question and the answer, please.</p> <p>3 MS. MONTGOMERY: If we're going to read back</p> <p>4 the question and the answer, you're going to have to go a</p> <p>5 long ways back. Let's continue on.</p> <p>6 MR. SHERR: Could you read back --</p> <p>7 MS. MONTGOMERY: I'm going to rephrase the</p> <p>8 question. It's my deposition, knock it off.</p> <p>9 MR. SHERR: Don't tell me to knock off</p> <p>10 anything.</p> <p>11 MS. MONTGOMERY: Here's the question --</p> <p>12 MR. SHERR: And don't talk to me in that tone,</p> <p>13 young lady.</p> <p>14 MS. MONTGOMERY: This is the question and</p> <p>15 we're not reading the question back.</p> <p>16 MR. SHERR: If you want her --</p> <p>17 MS. MONTGOMERY: I have withdrawn the</p> <p>18 question. I've withdrawn the question.</p> <p>19 MR. SHERR: And all I was saying is if you</p> <p>20 want her to clarify it --</p> <p>21 MS. MONTGOMERY: Moving right along.</p> <p>22 MR. SHERR: -- then we'll reask the question</p> <p>23 and get the answer again.</p> <p>24 MS. MONTGOMERY: We're going to reask the</p> <p>25 question.</p> |
| <p style="text-align: right;">167</p> <p>1 Q Do you know whether the board ever -- the</p> <p>2 board of supervisors ever passed a resolution regarding the</p> <p>3 lawsuit that they initiated against Mr. Corneal?</p> <p>4 A No.</p> <p>5 Q You don't know or did they?</p> <p>6 A They didn't.</p> <p>7 Q They did not. Did they just decide it among</p> <p>8 themselves informally?</p> <p>9 A No.</p> <p>10 Q How was it decided?</p> <p>11 A With our township attorney.</p> <p>12 Q With Mr. Newton?</p> <p>13 A Yes.</p> <p>14 Q So Mr. Newton advised the board of supervisors</p> <p>15 that they should initiate a lawsuit against Mr. Corneal?</p> <p>16 A No.</p> <p>17 Q I'm not sure I understand your answer. Do you</p> <p>18 want to clarify what you're trying to tell me?</p> <p>19 MR. SHERR: Don't feel that it's necessary.</p> <p>20 You've answered her question. You've answered it directly.</p> <p>21 MS. MONTGOMERY: She hasn't answered it</p> <p>22 directly.</p> <p>23 MR. SHERR: She absolutely has.</p> <p>24 MS. MONTGOMERY: It's not permissible to be</p> <p>25 evasive.</p> | <p style="text-align: right;">169</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Did the board of supervisors pass a resolution</p> <p>3 regarding the lawsuit that they filed against Mr. Corneal?</p> <p>4 A No.</p> <p>5 Q Did they just decide among themselves that</p> <p>6 they were going to file the lawsuit?</p> <p>7 MR. SHERR: Objection, asked and answered.</p> <p>8 MS. MONTGOMERY: That's good.</p> <p>9 MR. SHERR: That's not the question. The</p> <p>10 question was -- you said did Mr. Newton advise them to file</p> <p>11 a lawsuit and she said no and then you asked her to clarify</p> <p>12 that.</p> <p>13 MS. MONTGOMERY: I know what I said and I am</p> <p>14 going to move on.</p> <p>15 MR. SHERR: Well, then why are you going back</p> <p>16 to all these other questions? Objection, asked and</p> <p>17 answered. You can answer.</p> <p>18 BY MS. MONTGOMERY:</p> <p>19 Q Did they decide among themselves to file a</p> <p>20 lawsuit?</p> <p>21 MR. SHERR: Objection, asked and answered.</p> <p>22 You can answer it.</p> <p>23 THE WITNESS: No.</p> <p>24 BY MS. MONTGOMERY:</p> <p>25 Q So did their attorney -- no, that wasn't the</p> |

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1 question. Who else was involved in the decision to file a
2 lawsuit?
3 A I don't really know. I don't know how to
4 answer you.
5 Q Well, if they didn't decide among themselves
6 to file a lawsuit against Mr. Corneal, how did they decide
7 it?
8 MR. SHERR: Objection to the form of the
9 question. I think you're misstating her testimony. You can
10 answer the question if you can.
11 THE WITNESS: They sought counsel about it.
12 BY MS. MONTGOMERY:
13 Q Sought counsel from who?
14 A Larry Newton.
15 Q Then my question was did Mr. Newton advise
16 them that they could file a lawsuit against Mr. Corneal?
17 A You did it in the opposite the --
18 MR. SHERR: Just answer her question.
19 THE WITNESS: Yes.
20 BY MS. MONTGOMERY:
21 Q He did. That's all I wanted to know. Do you
22 recall who actually initiated the discussions about filing a
23 lawsuit against Mr. Corneal?
24 A I have no idea.
25 Q Did you initiate them?

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1 A I probably have.
2 Q Are you saying probably because you don't
3 recall?
4 A I have.
5 Q You have discussed it with him, okay. On what
6 occasions?
7 A I don't know.
8 Q When you say you don't know, do you mean you
9 don't know exactly when they were or what?
10 A I don't know when they were.
11 Q Well, if you don't know when they were, then
12 do you just recall the setting for the discussion with Mr.
13 Newton that you had?
14 A Probably in his office.
15 Q Did you go to his office by yourself?
16 A For what reason?
17 Q To discuss the lawsuit with Mr. Corneal.
18 A No.
19 Q Who did you go with?
20 A I believe we were all there.
21 Q On more than one occasion?
22 A I don't think so.
23 Q You recall then being there one time?
24 A Yes.
25 Q Did you discuss it over the telephone with Mr.

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1 A No.
2 Q Were you involved in discussions with the
3 supervisors about doing it?
4 A I might have been. I don't know.
5 Q Were you present at meetings with the
6 supervisors when it was being discussed?
7 A Probably.
8 Q Why do you say probably?
9 A Because I'm in a lot of things.
10 Q Were you involved in discussions with the
11 supervisors and Mr. Newton about filing a lawsuit against
12 Mr. Corneal?
13 A Probably.
14 Q And why do you say probably?
15 A Because I cannot remember if I was there when
16 they did it.
17 Q How do you know that they discussed it with
18 Mr. Newton then, with Attorney Newton?
19 A Because he's our lawyer.
20 Q Did they tell you that they sought counsel --
21 A Sure.
22 Q -- from Mr. Newton?
23 A Yes.
24 Q Did you discuss the lawsuit directly with Mr.
25 Newton?

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1 Newton?
2 A Yes.
3 Q Prior to filing the lawsuit?
4 A I don't remember if it was prior or after.
5 Q Did you discuss it on the telephone alone with
6 Mr. Newton or with the other supervisors?
7 A Probably both.
8 Q Was anybody else there besides the supervisors
9 when you, for example, went to the office of Larry Newton to
10 discuss the lawsuit against Mr. Corneal?
11 A No.
12 Q Just the supervisors and you?
13 A Yes, that I can recall.
14 Q Was Barry Parks at any of the meetings that
15 you can recall at which the lawsuit against Mr. Corneal was
16 going to be filed?
17 I don't think I said that very well. Let me
18 rephrase that. Was Barry Parks present at any of the
19 meetings at which the lawsuit that was to be filed against
20 Mr. Corneal was discussed?
21 A I testified to that a while ago.
22 Q I don't recall what you said, I apologize.
23 What did you say?
24 A Everybody that was in the lawsuit was in the
25 courthouse.

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1 Q At the hearing you mean?
2 A Yeah.
3 Q I was talking about meetings. You're talking
4 about the lawsuit up in the county, correct?
5 A Yes.
6 Q I actually was referring to meetings. When
7 you say that everybody involved in the lawsuit was there at
8 the courthouse, at the county courthouse in the county
9 lawsuit, you mean everybody in this lawsuit? Is that what
10 you mean?
11 A No.
12 Q You mean everybody in that lawsuit?
13 A Yes.
14 Q Are you a party to that lawsuit?
15 A No.
16 Q Is Barry Parks a party to that lawsuit?
17 A Yes.
18 Q His name is on the pleadings?
19 A I don't know.
20 Q Is Van Dommelen a party to that lawsuit?
21 A I don't know.
22 Q I'm just trying to clarify who it is you're
23 talking about, that's all, because if you say everybody in
24 that lawsuit, then we could look at those pleadings and say
25 -- then we know who was there. If you're talking about

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1 Q And who was that?
2 A Different people got it from me.
3 Q Different people got it from you?
4 A Bought it from me actually.
5 Q Bought it from you. The proposed or the
6 final?
7 A I think it was the proposed.
8 Q So you did send copies --
9 A No, it was the final. The final, I'm sorry.
10 It's the final.
11 Q After it was --
12 A After it was passed.
13 Q But prior to the time it was passed you never
14 sent a copy of it to anybody?
15 A Not that I can recall, other than what I
16 testified to.
17 Q Did you get any requests from anybody?
18 A No, except Mr. Corneal.
19 Q Did you send him a copy of the proposed --
20 A No.
21 Q Why not?
22 A I didn't have one to give him at the time.
23 Q But he did ask you for one?
24 A Not me.
25 Q Who did he ask?

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1 everybody in this lawsuit was involved in that lawsuit in
2 the courthouse, then we know who was there.
3 A I don't know.
4 Q Why did you attend that hearing for the
5 lawsuit that's up in Huntingdon County?
6 A Because they take me most every place they go.
7 Q Why was Mr. Parks there?
8 A I don't know.
9 Q Do you recall whether you sent copies of the
10 draft township ordinance to any members of the public at any
11 time during the time that it was under consideration?
12 A What do you mean public?
13 Q Well, a member of the public, resident. Did
14 you send copies of the township ordinance to anybody, the
15 proposed township ordinance to anybody?
16 MR. SHERR: Other than what's been testified
17 to already?
18 THE WITNESS: No.
19 BY MS. MONTGOMERY:
20 Q Other than the county commissioners -- I mean
21 the county planning commission.
22 A No.
23 Q Did anybody ever request a copy of the
24 proposed ordinance from you?
25 A Yes.

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1 A Larry, I believe.
2 Q He asked Larry Newton for a copy of the
3 proposed subdivision ordinance. Did Larry then pass that
4 request on to you?
5 A I believe I read it in a letter, is how I know
6 that.
7 Q Did you know about the request at the time
8 that it was submitted?
9 A No.
10 Q You found out about it later?
11 A Yes.
12 Q But then you just said you didn't have one to
13 give him at the time and that's why you didn't give him
14 one.
15 A No. When Larry had that request, they weren't
16 -- the date on there -- I think it's the date that's in
17 that letter. I don't know. It's in one of these
18 correspondence. I saw it the other day when I was there.
19 We didn't have an ordinance yet.
20 Q Well, we were talking about the proposed
21 subdivision ordinance and the request for that.
22 A We didn't have a proposed yet either.
23 Q Just so I'm clear about your testimony --
24 MS. MONTGOMERY: Let the record reflect that
25 Mr. Sherr just said something to his client. I'm not sure

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1 what it was.
2 MR. SHERR: I'll state it, you're doing all
3 right, just listen to her questions. Are you satisfied?
4 THE WITNESS: That's what he said to me.
5 BY MS. MONTGOMERY:
6 Q Did the Corneals ever ask you for a copy of
7 the ordinance at one of the township meetings?
8 A **Not that I recall.**
9 Q Do you recall telling the Corneals at any of
10 the meetings that the board only had originals and no
11 copies?
12 A **I might have done that.**
13 Q Is that the proposed ordinance or the final
14 ordinance?
15 A **Proposed.**
16 Q I think, if I understand your testimony, that
17 you said that when Mr. Corneal asked Larry Newton for a copy
18 of the proposed ordinance you didn't have a proposed
19 ordinance at that point?
20 A **We didn't have copies of a proposed ordinance.**
21 Q Do you recall when you gave your first
22 proposed ordinance to the Huntingdon County Planning
23 Commission?
24 A **You asked me that earlier and I don't know.**
25 Q Do you know if it was before or after Mr.

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1 Q Did they ever have a subdivision ordinance to
2 your knowledge?
3 A **A county subdivision ordinance?**
4 Q A county subdivision ordinance.
5 A **No.**
6 Q I notice that the Huntingdon County Planning
7 Commission letters of February 24 and April 20th, which are
8 Wirth 11 and 10 respectfully, are addressed to you.
9 A **Yes.**
10 Q Did you read these letters?
11 A **Yes.**
12 Q Look at Paragraph 2 on the April 20th letter,
13 Paragraph 2 meaning their numbered paragraph 2. Miss Wirth,
14 what do you understand that paragraph to mean?
15 A **That the county was questioning the soils at**
16 **the site where he was proposing a house.**
17 Q Do you know what hydric soils are?
18 A **I know it has something to do with a wetland,**
19 **that's all I know.**
20 Q And then continuing on with Paragraph 2 do you
21 see where it says that the Blazosky Associates had indicated
22 that no wetlands were present at the location of the lots in
23 the Corneal subdivision proposal?
24 A **Yes.**
25 Q What occurred after the Blazosky Associates

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1 Corneal asked Mr. --
2 A **It had to be before.**
3 Q Did you talk to Larry Newton about whether or
4 not you ought to provide Mr. Corneal with a copy of the
5 proposed subdivision ordinance?
6 A **I don't recall.**
7 Q You don't recall. Did you ask the supervisors
8 about whether or not you ought to provide a copy?
9 A **I don't recall.**
10 Q Do you have any understanding at all of what
11 factors the county planning commission relies upon in
12 reviewing a proposed subdivision ordinance?
13 A **No.**
14 Q Do you know what they compare it to?
15 A **No.**
16 Q Does the county have a subdivision ordinance?
17 A **No.**
18 Q Did you get comments from the county on all
19 three ordinances that were passed at the July 10, 2000
20 meeting?
21 A **I don't recall if we got it on all three or**
22 **not.**
23 Q You just testified that Huntingdon County
24 doesn't have a subdivision ordinance, correct?
25 A **That's right.**

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1 map and study data identifying the investigation area was
2 submitted?
3 A **I have no idea.**
4 Q What occurred in response to their opinion and
5 their report that there were no wetlands present at the
6 location of the lots of the proposal?
7 A **I don't -- I have no idea.**
8 Q What prompted the Huntingdon County Planning
9 Commission to have to review whether or not there were
10 wetlands, do you know?
11 A **I have no idea.**
12 Q Do you know whether anybody among the township
13 supervisors questioned whether the Blazosky Associates
14 proposal was correct?
15 A **I have no idea.**
16 Q Did you question whether the Blazosky -- are
17 you familiar with the Blazosky Associates report?
18 A **I know it exists from this letter.**
19 Q Did you ever read it?
20 A **No.**
21 Q Did you know what the conclusions were?
22 A **No.**
23 Q Do you know whether the supervisors questioned
24 whether Barry Parks had correctly identified wetlands? Do
25 you know whether any supervisor questioned that?

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1 A You'll have to ask them.
 2 Q Did you have any conversations with anybody
 3 from the Huntingdon County Planning Commission about whether
 4 or not there were wetlands?
 5 A No.
 6 Q Let me ask you about Paragraph 3 of this April
 7 20 letter. Can you just look at that, the numbered
 8 paragraph 3. What do you understand that paragraph to mean,
 9 Miss Wirth?
 10 A What it says.
 11 Q The proposal that they're speaking about in
 12 that Paragraph 3, that's the subdivision proposal, correct,
 13 that the Corneals submitted?
 14 A I would assume.
 15 Q Now, why are these letters addressed to you?
 16 A Because they all come to the secretary because
 17 that's where the mail comes to.
 18 Q Then do you pass them on to each of the
 19 township supervisors?
 20 A I attach them to the subdivision plot plan.
 21 Q You attach them to the subdivision plot plan?
 22 A Right, and they review it.
 23 Q And then the supervisors review it?
 24 A Right.
 25 Q When do they review it, at a township meeting

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1 mark now as Wirth Exhibit 12.
 2 (Letter dated 11/10/00 produced and marked as
 3 Wirth Exhibit No. 12.)
 4 BY MS. MONTGOMERY:
 5 Q Have you seen this letter before?
 6 A Yes, I probably have.
 7 Q I see that this letter is -- this Box 390 up
 8 there, that's your home address, right?
 9 A Yes.
 10 Q The letter is addressed to gentlemen, which
 11 means the township supervisors, correct?
 12 A Yes.
 13 Q So when you get a letter like this, what do
 14 you do with it?
 15 A Well, this one I probably gave to Larry
 16 Newton.
 17 Q And then you would assume that Larry Newton
 18 would pass it on to the township supervisors?
 19 A I might have given them copies. I don't
 20 remember.
 21 Q So I think you testified earlier that you
 22 didn't know anything about a hearing request in connection
 23 with his building permit?
 24 A I keep asking you about time frames. You must
 25 talk to me about time frames because there's two different

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1 or informally or what?
 2 A It gets presented at the township meeting and
 3 then if we don't have the letter back from the county or
 4 there's something else that needs to happen they will sign
 5 them at a later date.
 6 Q When you say you attach them, you mean you put
 7 them in the file with it, stick them inside of the -- inside
 8 a rubber band?
 9 A Somewhere -- it's attached.
 10 Q So it becomes part of the application,
 11 correct?
 12 A It should.
 13 Q In response to this April 20, 2000 letter from
 14 the planning commission, what action did the board of
 15 supervisors take with respect to the Corneal's subdivision
 16 proposal?
 17 A You'll have to ask them.
 18 Q Was it discussed any further at an additional
 19 meeting?
 20 A About this proposal?
 21 Q About this letter.
 22 A This letter?
 23 Q What the letter recommends.
 24 A Not that I can recall.
 25 Q I'm going to show you a letter I'm going to

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1 things going on here.
 2 Q Well, this is November 10, 2000.
 3 A Okay, but there's the original building --
 4 should I go into this?
 5 MR. SHERR: Is it an answer to her question?
 6 THE WITNESS: Yes. The original building --
 7 when he applied for a building permit the first time, that
 8 was not this time. This is whenever now we're working with
 9 him to get his building permits and his sewage permits.
 10 There's two different issues here and you have to clarify
 11 not just year, you're going to have to clarify issues.
 12 BY MS. MONTGOMERY:
 13 Q Okay, so when I asked you do you know anything
 14 about an appeal of Mr. Corneal's application for a building
 15 -- denial of an application for a building permit, I have
 16 to tell you the exact date?
 17 A You're going to have to tell me which issue
 18 we're talking about because there's two different things
 19 going on.
 20 Q Well, now that you look at it, do you recall
 21 a hearing --
 22 A Yeah, I know about this.
 23 Q Was there a hearing ever scheduled?
 24 A We have talked to Terry Williams numerous
 25 times. We've had hearings with Terry and phone calls and --

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1 they have.

2 Q I think I asked you this before, but if you're
 3 going to have a hearing on this appeal, the denial of his
 4 building permit, where would that be held?

5 A All the meetings we had with Terry Williams
 6 were in the courthouse.

7 Q That wasn't my question. I'm talking about a
 8 hearing on an appeal of the denial of a building permit.

9 A We never had a hearing with Mr. Corneal. We
 10 had hearings -- meetings. We had meetings with Mr. Williams
 11 in the courthouse. That's all we ever did.

12 Q Let me ask you this: If Mr. Van Dommelen
 13 sends out a denial of a building permit, does he send a copy
 14 to you?

15 A He would.

16 Q He would?

17 A Probably.

18 Q And would you keep it in your files?

19 A I've only ever had one.

20 Q One denial of a building permit?

21 A Yes.

22 Q And that was Mr. Corneal's?

23 A Right.

24 Q No other building permit has ever been denied
 25 in Jackson Township in your time?

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1 A I can't say that.

2 Q In your time?

3 A I can't say that.

4 Q But you've only ever gotten one letter?

5 A I've only gotten one letter. I can't say
 6 anything else.

7 Q Well, back to my question. Was a hearing ever
 8 scheduled for an appeal on the denial of the building permit
 9 in accordance with this November 10, 2000 letter?

10 A I can't recall the time we met with Terry
 11 Williams. I cannot recall the hearing we had with Terry
 12 Williams, what day it was, when it was.

13 Q Well, the hearing you had with Terry Williams
 14 was in the county court suit up there, right? Is that what
 15 you're talking about?

16 A Yes, and that's what we -- I thought that's
 17 when this stuff took -- was taken care of.

18 Q I'm going to show you a copy of a letter that
 19 we're going to mark as Wirth Exhibit 13 now.

20 (Letter dated 10/10/00 produced and marked as
 21 Wirth Exhibit No. 13.)

22 BY MS. MONTGOMERY:

23 Q Before we even go back and talk about that, I
 24 just want to go back to what you testified to a couple
 25 minutes ago. You had said that you couldn't respond before

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1 to my question about whether you were aware of a hearing on
 2 Mr. Corneal's appeal of the denial of his building permit
 3 because there was another issue, there were two issues, and
 4 I need you to identify the issue, okay?

5 A Okay.

6 Q What was the other issue?

7 A Now, I'm asking you to talk about the new
 8 submissions that he has and the old submissions that he has
 9 because they were handled in two different fashions.

10 Q What do you mean they were handled in two
 11 different fashions?

12 A Well, Terry Williams submits everything here,
 13 okay. This one was directly submitted to me, okay, and this
 14 was --

15 Q When you say this one, what are you referring
 16 to?

17 A This letter, Number 13, this came to me.
 18 Those building permits came to me.

19 Q You're looking at Number 13 and you're saying
 20 the letter from David Van Dommelen dated April 10, 2000 came
 21 to you?

22 A No, no, not the letter.

23 Q Okay, what?

24 A Mr. Corneal's application, he sent them to me,
 25 with drawings that he had drawn by hand attached, and that's

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1 the answer -- this is the answer to that. And I'm assuming
 2 that's what this is about, but I don't know.

3 Q So you're saying the October 10, 2000 letter
 4 from Mr. Van Dommelen is a response to Mr. Corneal's request
 5 for a building permit?

6 A The first building permit.

7 Q When Mr. Van Dommelen sent this letter out to
 8 Mr. and Mrs. Corneal that we've marked Wirth 13, did you get
 9 a copy of it?

10 A Obviously. I gave you one.

11 Q Well, you gave it to me. Did you get a copy
 12 of it when it went out?

13 A I probably did. I have a file.

14 Q Do you know who drafted the letter?

15 A You'll have to talk to David about that.

16 Q Did you draft the letter?

17 A No.

18 Q Does he have somebody who does his typing?

19 A You'll have to talk to him.

20 Q Do you do his typing ever?

21 A No.

22 Q I see up at the top here it has Jackson
 23 Township Board of Supervisors, R.D. 1, Box 390. That's your
 24 home box, right?

25 A Yeah, that's not right.

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1 Q So Mr. Van Dommelen has an office where he
2 lives, where he keeps documents, but he uses Jackson
3 Township Board of Supervisor's address for his
4 correspondence?
5 A **In this case he did.**
6 Q Let me ask you this: Does Mr. Van Dommelen --
7 is it your understanding within the township governing body
8 that Mr. Van Dommelen passes on compliance with the
9 Pennsylvania Sewage Facilities Act? Let me direct your
10 attention to the October 10, 2000 letter marked Wirth 13.
11 A **Pennsylvania Sewage Facility Act is addressed**
12 **in our building permit ordinance.**
13 Q So Mr. Van Dommelen passes on whether or not
14 individuals requesting a building permit have complied with
15 the Pennsylvania Sewage Facilities Act?
16 A **According to the ordinance, you have to have a**
17 **sewage permit if you're going to build a property and he**
18 **would say no to that if you didn't have one.**
19 Q So Mr. Van Dommelen would communicate with Mr.
20 Parks about whether or not he's got a sewage permit, right?
21 A **No, you don't -- anybody that goes to get a**
22 **permit normally has a sewage permit, if they're building a**
23 **house.**
24 Q Let me ask you this: Do you know whether or
25 not you need a sewage permit for a garage?

191

1 A **No.**
2 Q You don't think you do?
3 A **If you're just building a garage and nothing**
4 **else.**
5 Q Okay.
6 (Discussion held off the record.)
7 MS. MONTGOMERY: I'm going to take a break and
8 look at our documents and then we're going to come back and
9 finish this up.
10 (Break taken at 2:42 p.m. until 3:01 p.m.)
11 BY MS. MONTGOMERY:
12 Q I want to show you a series of documents
13 attached together that we are going to mark as Wirth
14 Exhibit 14.
15 (Packet of documents produced and marked as
16 Wirth Exhibit No. 14.)
17 (Discussion held off the record.)
18 BY MS. MONTGOMERY:
19 Q This is Wirth Exhibit 14. After you take a
20 moment to look at that, Miss Wirth, at this collection of
21 documents, would you tell me if you recognize it.
22 A **Yes.**
23 Q Do you see that there are two letters, an
24 August 31, 2000 and a September 1, 2000 letter, correct?
25 A **Right.**

192

1 Q Now, you received these letters, correct?
2 A **Yes.**
3 Q Did you receive the attachments that you see
4 here?
5 A **To the best of my knowledge.**
6 Q Were there also sewer modules attached to this
7 when it came to you originally in the August, September 2000
8 time frame?
9 A **I don't remember.**
10 Q What did you do with this submission when you
11 received it?
12 A **I don't remember what we did with it.**
13 Q Is this what you were referring to as Mr.
14 Corneal's second request for a building permit?
15 A **I believe so.**
16 Q Did you give this to the supervisors?
17 A **I'm sure I did.**
18 Q Did you pass it onto the building inspector or
19 the building permit officer?
20 A **I must have.**
21 Q Did you have any discussion with the
22 supervisors or the building permit officer about this
23 building permit application?
24 A **I don't recall.**
25 Q Do you know whether it was ever acted on?

193

1 A **I don't recall.**
2 Q Did you ever discuss this second set of
3 building applications with Attorney Newton?
4 A **Probably.**
5 Q Why do you say probably?
6 A **Because there's a lot of things happening and**
7 **I'm not sure which players are involved. I'm not sure if**
8 **this is the -- I'm not sure.**
9 Q So if you call this the second attempt to
10 obtain a building permit, what was the first attempt, do you
11 recall?
12 A **I'm not sure. I'm not sure.**
13 Q Well, whether or not it was the first or
14 second, what do you know about any other attempt by Mr.
15 Corneal to obtain a building permit?
16 A **Only what I've testified.**
17 Q Well, what you've testified to so far, you're
18 saying?
19 A **Yes.**
20 Q Do you know whether or not Mr. Corneal ever
21 went out to Mr. Van Dommelen's residence to try and obtain a
22 building permit?
23 A **Yes.**
24 Q What do you know about that?
25 A **I can't testify to that because I only know**

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1 what I heard.
2 Q What did you hear?
3 MR. SHERR: Object to the form of the
4 question, calls for hearsay. You can answer it.
5 THE WITNESS: I don't really know what
6 happened out there. I was not there.
7 BY MS. MONTGOMERY:
8 Q I'm not asking you what you know, I'm asking
9 you what you heard, which you're allowed to testify to in a
10 deposition.
11 MR. SHERR: Same objection. Subject to the
12 objection, you can answer.
13 THE WITNESS: That he didn't give him a
14 permit.
15 BY MS. MONTGOMERY:
16 Q Why didn't he give him a permit?
17 MR. SHERR: Same objection. You can answer,
18 same basis.
19 BY MS. MONTGOMERY:
20 Q You can answer it.
21 A The same reason we've talked about all day.
22 Q And what was that we've talked about all day?
23 A He didn't have the proper documentation.
24 Q Do you know whether he was even given an
25 application when he went out to Mr. Van Dommelen's?

196

1 MR. SHERR: Well, you can't give her
2 instructions. You can ask her questions.
3 MS. MONTGOMERY: I can make a record of it if
4 I want to.
5 MR. SHERR: You can make a record of anything
6 you want, but you need to ask her questions.
7 MS. MONTGOMERY: That's what I did.
8 MR. SHERR: Are you done with the deposition?
9 MS. MONTGOMERY: No.
10 MR. SHERR: Well, then ask her a question.
11 BY MS. MONTGOMERY:
12 Q Did you bring any documents with you today to
13 this deposition?
14 A No, I ...
15 Q Were you instructed by anybody whether or not
16 to bring any documents with you to this deposition today?
17 A No.
18 Q You weren't instructed one way or the other?
19 A No.
20 Q Did you ever discuss with Mr. Parks his review
21 of the Corneal sewage module?
22 A I don't believe so.
23 Q Does the board of supervisors have a
24 particular procedure that you're aware of for review and
25 approval of sewage modules?

195

1 A From a letter that I read, no. This letter, I
2 think. Somewhere there's something that said he wasn't.
3 Q Had you heard anything about that before that?
4 A I don't know.
5 Q Did you have a copy of this letter to you, the
6 August 31 and September 1 letter in your files?
7 A I gave you these.
8 Q You gave me these?
9 A I believe. No? Well, then I do. I know that
10 -- I thought that was my number because I was writing on
11 there.
12 MR. SHERR: Answer her question.
13 THE WITNESS: Okay. I do.
14 BY MS. MONTGOMERY:
15 Q So you do have them in your files?
16 A Yes.
17 Q Miss Wirth, I'm going to ask you to take our
18 document request -- which you have a copy of, correct?
19 A Yes.
20 Q And review it again with your counsel and see
21 whether there are any other documents responsive to the
22 document request and provide them to us immediately, okay.
23 MR. SHERR: Is that a question?
24 MS. MONTGOMERY: No, it's an instruction, it's
25 a request.

197

1 A I think I did testify that -- to that earlier.
2 Q I don't recall you testifying to it but --
3 A It's attached to the plot plan, the same thing
4 as we review from the county. It's the same review.
5 Q So let me ask you this: In your experience is
6 it correct that the sewage enforcement officer, Barry Parks,
7 first reviews the sewage module and signs off on them; is
8 that correct?
9 A I'm not sure what the procedure is.
10 Q You have no idea?
11 A No, I don't know.
12 Q Do you know whether or not the township has
13 ever rejected any sewage module that was approved by Barry
14 Parks?
15 A I have no idea.
16 Q You have no idea. Do you know whether they
17 rejected Mr. Corneal's sewage module?
18 A Yes.
19 Q Was it approved by Mr. Parks?
20 A I don't know.
21 Q Did you ever direct Mr. Parks or at least
22 suggest to Mr. Parks that he go out to Mr. Corneal's
23 property in 2001, in the year 2001, and reinspect his
24 property to see whether there was sewage enforcement
25 compliance?

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|--|---|
| <p style="text-align: right;">198</p> <p>1 A Me personally?</p> <p>2 Q Yes.</p> <p>3 A No.</p> <p>4 Q Did you ever pass along to him a request from</p> <p>5 anybody else to do that?</p> <p>6 A I don't think I did that.</p> <p>7 Q Did the supervisors to your knowledge ever --</p> <p>8 A You'll have to ask them.</p> <p>9 Q Well, I'm asking you if in your presence or to</p> <p>10 your knowledge whether --</p> <p>11 A I don't recall.</p> <p>12 Q Let me finish my question. Whether the</p> <p>13 supervisors instructed Barry Parks to go back out to Mr.</p> <p>14 Corneal's property and reinspect his sewage sites.</p> <p>15 A I don't recall.</p> <p>16 Q Did you ever discuss it with Larry Newton</p> <p>17 whether Mr. Parks ought to go back out to Mr. Corneal's</p> <p>18 property and reinspect the test sites for sewage?</p> <p>19 A I don't recall.</p> <p>20 Q At one point when I asked you this question</p> <p>21 earlier about whether or not you asked or suggested to Barry</p> <p>22 Parks that he go back out to the Corneal property, you said</p> <p>23 not me personally.</p> <p>24 A No, I asked you a question, if you meant me</p> <p>25 personally.</p> | <p style="text-align: right;">200</p> <p>1 Q Do you know who the complaint was made to?</p> <p>2 A I have no idea. I think it says Army Corps of</p> <p>3 Engineers or something.</p> <p>4 Q The Army Corps of Engineers. Was there any --</p> <p>5 do you recall discussing that complaint with anybody else at</p> <p>6 all?</p> <p>7 A No.</p> <p>8 Q Do you recall anybody else discussing that</p> <p>9 complaint in your presence?</p> <p>10 A No.</p> <p>11 Q Have you seen any written correspondence X</p> <p>12 about that complaint?</p> <p>13 A No.</p> <p>14 Q Is the only knowledge that you have about that</p> <p>15 complaint against the Corneals what you saw in a letter here</p> <p>16 somewhere?</p> <p>17 A Yes.</p> <p>18 Q After the initiation of the lawsuit?</p> <p>19 A Yes.</p> <p>20 Q So you didn't know about it before the</p> <p>21 initiation of the lawsuit?</p> <p>22 A No.</p> <p>23 Q When I asked you briefly earlier about whether</p> <p>24 or not you were familiar with the report from Blazosky and</p> <p>25 Associates --</p> |
| <p style="text-align: right;">199</p> <p>1 Q Oh, okay.</p> <p>2 A So I understood what you were asking me.</p> <p>3 Q Okay.</p> <p>4 A It's been a long day.</p> <p>5 Q Yes. So your answer is no, you personally did</p> <p>6 not?</p> <p>7 A No.</p> <p>8 Q Do you recall anybody suggesting that Barry</p> <p>9 Parks go back out to the Corneal's property to reinspect the</p> <p>10 test sites for sewage?</p> <p>11 A Not that I recall.</p> <p>12 Q Do you know how it came to occur that --</p> <p>13 A No.</p> <p>14 Q -- Mr. Parks went back out there?</p> <p>15 A No.</p> <p>16 Q You don't know, okay. Are you aware of a</p> <p>17 complaint that was filed against the Corneals concerning</p> <p>18 possible wetlands on their property?</p> <p>19 A I know of it.</p> <p>20 Q Do you know who filed -- who made that</p> <p>21 complaint?</p> <p>22 A I have no idea.</p> <p>23 Q How do you know of it?</p> <p>24 A Because it's in one of these documents that's</p> <p>25 here.</p> | <p style="text-align: right;">201</p> <p>1 A From what?</p> <p>2 Q I think it's -- am I saying that right?</p> <p>3 Blazosky and Associates on wetlands on the Corneal property.</p> <p>4 A Okay, yeah.</p> <p>5 Q I asked you earlier had you ever seen that</p> <p>6 report when it came out.</p> <p>7 A I don't recall.</p> <p>8 Q Do you recall whether or not it was discussed</p> <p>9 among the supervisors?</p> <p>10 A No.</p> <p>11 Q Do you have a copy of that report in your</p> <p>12 files?</p> <p>13 A I don't know.</p> <p>14 Q Do you know how it came to occur that Mr.</p> <p>15 Corneal had to supply a third-party certification that the</p> <p>16 sites already approved by the sewage enforcement officer</p> <p>17 were not located in wetlands?</p> <p>18 A No.</p> <p>19 Q You don't know how it came -- did you ever</p> <p>20 hear it discussed?</p> <p>21 A No.</p> <p>22 Q Let me ask you a very broad, general question</p> <p>23 about it. Did you know anything about it -- do you right</p> <p>24 now know anything about it?</p> <p>25 A I don't know what you mean.</p> |

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|---|--|
| <p style="text-align: right;">202</p> <p>1 Q The sewage enforcement officer having</p> <p>2 determined that there are no wetlands on the Corneal</p> <p>3 property, okay. Do you know anything about the board or</p> <p>4 anybody else requiring that a third party certify that the</p> <p>5 sewage enforcement officer was correct in that</p> <p>6 determination?</p> <p>7 A No.</p> <p>8 Q Do you know anything about Mr. Wilson's</p> <p>9 interest in the property now owned by the Corneals?</p> <p>10 A No.</p> <p>11 Q Do you know anything about his family's prior</p> <p>12 ownership of it?</p> <p>13 A No.</p> <p>14 Q You don't?</p> <p>15 A No.</p> <p>16 Q Do you know anything about the history of that</p> <p>17 property at all?</p> <p>18 A No.</p> <p>19 Q Are you ever involved in any way, whether it's</p> <p>20 through maintenance of records or passing correspondence, in</p> <p>21 the issuance of privy permits in the township?</p> <p>22 A No.</p> <p>23 Q That stuff never comes across your desk?</p> <p>24 A Nope.</p> <p>25 Q Did anybody ever call you and inquire about</p> | <p style="text-align: right;">204</p> <p>1 A Yes.</p> <p>2 Q Supervisors, I should say.</p> <p>3 A Yes.</p> <p>4 Q Did one supervisor in particular ask you to</p> <p>5 make that phone call?</p> <p>6 A No.</p> <p>7 Q Did you generally understand you were supposed</p> <p>8 to make that phone call?</p> <p>9 A Yes.</p> <p>10 Q So you took it upon yourself to make the phone</p> <p>11 call without a specific instruction on that particular</p> <p>12 occasion?</p> <p>13 A That's right. That's exactly right.</p> <p>14 Q Did you discuss the refusal to provide a privy</p> <p>15 permit to Mr. Corneal with Mr. Newton?</p> <p>16 A I don't know if I ever did or not.</p> <p>17 Q In your discussion with Mr. Parks about</p> <p>18 whether or not to provide a privy permit to Mr. Corneal, how</p> <p>19 long did you talk to him?</p> <p>20 A I have no idea.</p> <p>21 Q Did you call him at his house?</p> <p>22 A Yes.</p> <p>23 Q So you don't know exactly how long you talked</p> <p>24 to him. Do you know when you talked to him?</p> <p>25 A After the meeting.</p> |
| <p style="text-align: right;">203</p> <p>1 it?</p> <p>2 A Not to the best of my knowledge.</p> <p>3 Q Do you know anything about the granting of</p> <p>4 privy permits in the township?</p> <p>5 A No, I do not.</p> <p>6 Q Have you ever had any conversations with Mr.</p> <p>7 Parks about the issuance of privy permits?</p> <p>8 A Yes.</p> <p>9 Q What's the nature of those conversations?</p> <p>10 A I told him the result -- what the supervisors</p> <p>11 said the night of our meeting, that's all I did.</p> <p>12 Q The night of what meeting?</p> <p>13 A The meeting that -- I don't know what meeting</p> <p>14 it was. After the meeting of April 3rd.</p> <p>15 Q What did the supervisors say at the meeting of</p> <p>16 April 3rd?</p> <p>17 A That Mr. Corneal could not have a privy</p> <p>18 permit.</p> <p>19 Q So you passed that information on to Mr.</p> <p>20 Parks?</p> <p>21 A Barry Parks.</p> <p>22 Q Did you call him?</p> <p>23 A Yes, I did.</p> <p>24 Q Did you do so at the instructions of the</p> <p>25 supervisor?</p> | <p style="text-align: right;">205</p> <p>1 Q The same night of the meeting?</p> <p>2 A Yes.</p> <p>3 Q Immediately after the meeting?</p> <p>4 A I don't know.</p> <p>5 Q I may have asked you this, and I apologize,</p> <p>6 but do you recall the back and forth between you and Mr.</p> <p>7 Parks about whether or not to issue a privy permit?</p> <p>8 A Do I what?</p> <p>9 Q Do you recall the substance of the</p> <p>10 conversation?</p> <p>11 A No. All I did -- well, I guess I do. I just</p> <p>12 repeated what happened at the meeting and that's all I did.</p> <p>13 Q What did Mr. Parks say?</p> <p>14 A I don't know as he said anything. I just told</p> <p>15 him what happened.</p> <p>16 Q Did you ever talk to Mr. Parks about issuing</p> <p>17 the Corneals a privy permit?</p> <p>18 A Not that I remember.</p> <p>19 Q Did you seek any advice from Larry Newton in</p> <p>20 this regard?</p> <p>21 A I don't -- not that I recall.</p> <p>22 Q Did the Corneals ever contact you directly</p> <p>23 about getting a privy permit?</p> <p>24 A Not that I recall.</p> <p>25 Q When you called Mr. Parks, did you say to him</p> |

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1 something along these lines, and if I'm wrong correct me and
2 tell me what you said, okay, the supervisors said do not
3 issue a privy permit to Mr. Corneal; is that correct?
4 **A What I said was what was in the minutes.**
5 **Q** As you said, the minutes are a summary of what
6 goes on at the meetings. I'm just asking you if you can be
7 a little more specific in what you said to him.
8 **MR. SHERR:** I'm going to object to the form of
9 the question. It's been asked and answered and at this
10 point we're getting very argumentative, Counsel.
11 **MS. MONTGOMERY:** Really?
12 **MR. SHERR:** Yeah, really. Yeah, really. When
13 she says it's what's in the minutes and you're asking her
14 for more specificity and she said what's in the minutes, I
15 think that's pretty specific.
16 **MS. MONTGOMERY:** I'm entitled.
17 **MR. SHERR:** You're entitled to what?
18 **MS. MONTGOMERY:** I'm entitled to seek
19 information.
20 **MR. SHERR:** You are absolutely entitled to
21 seek information. You're not entitled to harass this
22 witness, you're not entitled to be argumentative with this
23 witness and you're not allowed to oppress this witness. You
24 can answer, if it's anything other than what's in the
25 minutes as you stated.

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1 **THE WITNESS:** It's what I just said.
2 (Discussion held off the record.)
3 **BY MS. MONTGOMERY:**
4 **Q** Are you aware of the contract that existed
5 between Mr. Corneal and the Hewetts for the purchase of the
6 farmhouse and some surrounding property that's located on
7 the larger piece owned by Mr. Corneal?
8 **A I'm aware they had an agreement.**
9 **Q** How did you become aware of that?
10 **A I think -- I don't know, somewhere in this.**
11 **Q** When did you first hear about it?
12 **A I don't -- I don't recall.**
13 **Q** Did you ever discuss that contract with
14 anybody else?
15 **A No.**
16 **Q** Did you ever discuss whether or not the
17 Hewetts were going to go forward with their sale -- purchase
18 of that property with anybody else?
19 **A I have no reason.**
20 **Q** Do you know whether anybody else is interested
21 in purchasing the farmhouse located on Mr. Corneal's
22 property?
23 **A I have no reason to have that information.**
24 **Q** I just asked you do you know.
25 **A No.**

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1 **Q** How long have you lived in Jackson Township?
2 **A Eleven years.**
3 **Q** Where did you live before that?
4 **A Camp Hill.**
5 **Q** Did you own property up there before you moved
6 up there 11 years ago?
7 **A Yes.**
8 **Q** How long did you own that property?
9 **A 1988.**
10 **Q** Did you own any property before you owned that
11 particular property?
12 **A Where?**
13 **Q** Up in Jackson Township.
14 **A No.**
15 **Q** Do you have family up there?
16 **A Yes.**
17 **Q** Who is that?
18 **A Nobody in Jackson Township, if that's what**
19 **you're asking.**
20 **Q** That's what I'm asking, right.
21 **A No, I don't have any family.**
22 **Q** Were you aware that Eagle Excavation was hired
23 to perform excavation work for test pits on the Corneal
24 property?
25 **A When?**

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1 **Q** At the time that they were hired to do so.
2 **A No.**
3 **Q** You were not aware of that?
4 **A No.**
5 **Q** Were you aware of Mr. Wilson doing any work up
6 on the Corneal property whatsoever?
7 **A When?**
8 **Q** At the time that he performed the work.
9 **A No.**
10 **Q** Now, you asked me when. When did you become
11 aware?
12 **A From the documents.**
13 **Q** Just from the documents in this lawsuit?
14 **A Right.**
15 **Q** After you initially called Mr. Parks and told
16 him that he wasn't supposed to issue a privy permit
17 according to the supervisors, did you ever call him back and
18 talk to him again?
19 **MR. SHERR:** Object to the form of the question
20 of misstating her prior testimony.
21 **BY MS. MONTGOMERY:**
22 **Q** I'll just try and rephrase it. Maybe I missed
23 something, but after you called Mr. Parks and informed him
24 that the supervisors said that he was not to be issued a
25 privy permit, did you ever call -- talk to him again about

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1 whether or not to issue the Corneals a privy permit?
 2 **A You asked me that before and I said no.**
 3 **Q Did you ever talk --**
 4 **A Not that I recall.**
 5 **Q Did you ever talk to him again about whether**
 6 **or not he ought to approve the sewage modules?**
 7 **A No.**
 8 **Q Did you ever call Mr. Van Dommelen with any**
 9 **information about whether or not he ought to issue a**
 10 **building permit to the Corneals?**
 11 **A No.**
 12 **Q I'm going to show you a document we are going**
 13 **to mark as Wirth Exhibit 15.**
 14 **(Letter dated 5/5/00 produced and marked as**
 15 **Wirth Exhibit No. 15.)**
 16 **BY MS. MONTGOMERY:**
 17 **Q Have you seen this document before, Miss**
 18 **Wirth?**
 19 **A Yes.**
 20 **Q In what capacity have you seen it?**
 21 **A It's in all this stuff I have.**
 22 **Q The document is dated May 5th, 2000, correct?**
 23 **A Yes.**
 24 **Q Were you given a copy of this document by Mr.**
 25 **Van Dommelen?**

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1 **A I don't know how I got the document.**
 2 **Q Did you have a copy of it in your files?**
 3 **A Yes.**
 4 **Q Did you provide it to us?**
 5 **A I don't know if I did or not.**
 6 **Q Did you ever discuss this letter with any of**
 7 **the board of the township supervisors?**
 8 **A I don't recall.**
 9 **Q Did you ever discuss it with Mr. Van Dommelen?**
 10 **A I don't -- I don't know. I don't recall.**
 11 **Q More generally did you ever discuss it with**
 12 **anybody at any time?**
 13 **A I don't recall.**
 14 **MS. MONTGOMERY: I don't think I have any**
 15 **other questions for you at this time, subject to our receipt**
 16 **of additional documents from your files and review of**
 17 **additional documents in Jackson Township and subject to what**
 18 **my client has to say right now about additional questions.**
 19 **I think we're finished for now, Miss Wirth.**
 20 **THE WITNESS: Thank you.**
 21 **MS. YANKANICH: I have some questions for you.**
 22 **I know it's been a long day and I'll try to be brief.**
 23
 24 **CROSS-EXAMINATION**
 25

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1 **BY MS. YANKANICH:**
 2 **Q In case I haven't introduced myself, Miss**
 3 **Wirth, I'm Jennifer Yankanich and I represent Larry Newton.**
 4 **A Yes.**
 5 **Q I want to go back and retrace some of these**
 6 **steps so that I understand very clearly what kind of**
 7 **communications you had with Larry Newton and so forth. So**
 8 **I'd like to start with the period of 1997 to '98, which is**
 9 **roughly when you said you started research on the**
 10 **subdivision ordinance.**
 11 **A Very little probably. I don't recall.**
 12 **Q But you did start research before you actually**
 13 **enacted the subdivision ordinance; is that correct?**
 14 **A Oh, yes.**
 15 **Q And the three supervisors asked you to do that**
 16 **research.**
 17 **A Oh, yes.**
 18 **Q Did you have any contact during that research**
 19 **with Larry Newton?**
 20 **A Between '97 and '98?**
 21 **Q At any time during the research and before the**
 22 **ordinance was enacted.**
 23 **A Oh, yes.**
 24 **Q What kind of communications were they?**
 25 **A Well, he typed the final -- he typed the**

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1 **ordinance that we came up with.**
 2 **Q Larry Newton did?**
 3 **A Yes.**
 4 **Q So --**
 5 **A Before the final -- I mean, it was a draft.**
 6 **He did that.**
 7 **Q When you were doing -- what kind of research**
 8 **were you doing on the ordinance?**
 9 **A That's what I testified, on all the other**
 10 **subdivision ordinances that we got and we divided and**
 11 **subtracted and put things together for Jackson Township.**
 12 **Q You stated that you had work groups with the**
 13 **three other supervisors?**
 14 **A Yes, we did.**
 15 **Q Now, how did Larry Newton come into the**
 16 **works? For instance, during these work groups if you had**
 17 **questions, did you call Larry Newton?**
 18 **A I don't recall if we called him from those**
 19 **work groups. I don't know that. I don't remember.**
 20 **Q Well, who made the decision on what parts to**
 21 **put into the subdivision ordinance?**
 22 **A The supervisors.**
 23 **Q Did you at any time contact Larry Newton and**
 24 **get his approval as to what was included in your draft**
 25 **ordinance?**

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1 A To get his approval?
2 Q Yes. When your supervisors made the decision
3 on what specific parts to put into this draft ordinance, did
4 they seek the approval of Larry Newton?
5 A I don't know if they ever asked for his
6 approval.
7 Q Did you ever -- you testified earlier you
8 weren't sure who asked you or who stated they wanted a
9 subdivision ordinance. Did you ever ask Larry Newton
10 whether or not the township could enact such an ordinance?
11 A Probably.
12 Q Was that before your research was started?
13 A I don't remember.
14 Q Do you remember that you did in fact ask him
15 whether you could have such an ordinance?
16 A I don't recall.
17 Q Now, throughout your workshops when did Larry
18 Newton get involved in typing the draft?
19 A You want a time?
20 Q Yes. For instance, you've told me that you
21 did some research, you gathered some other documents from
22 other townships who had such an ordinance, you and the three
23 supervisors sat down and picked some parts out of each of
24 these to put into yours. I'm asking you how Larry Newton
25 came to even start to type this.

215

1 A We took it into him and asked him to look at
2 -- look at it legally, I guess.
3 Q So you already had a draft?
4 A Yeah -- well, no, we didn't have a draft.
5 Q What did you submit to him?
6 A The pieces that we had.
7 Q And what did you specifically ask him about
8 those pieces?
9 A He just needed to look at them for, I guess,
10 the legal aspect of the thing, not as far as how they --
11 what it did to the township, but were they legal, I guess.
12 I don't know what he was doing. I just know that he did it.
13 Q Did you have that contact with Larry Newton or
14 did the supervisors?
15 A Probably me.
16 Q So were you always the go-between between
17 Larry Newton and the supervisors?
18 A No.
19 Q Was there a situation with regard to this
20 draft ordinance where the supervisors went directly to Larry
21 Newton to ask questions?
22 A You're only talking about the ordinance now?
23 Q The draft ordinance before it was enacted.
24 A I don't think so, but I don't -- I don't think
25 they went without me, but I don't know that for sure.

216

1 Q Before January 2000 when the moratorium was
2 voted on and passed --
3 A Um-hum.
4 Q -- did you ever ask Larry Newton whether or
5 not passing such a moratorium was legal?
6 A I don't recall if I did or not.
7 Q Do you recall if any of the supervisors asked
8 Larry Newton that?
9 A You'll have to ask them that.
10 Q Do you recall ever discussing the moratorium
11 prior to when it was passed with Larry Newton?
12 A I don't recall.
13 Q Before January 2000 did you have any knowledge
14 of David Corneal's property and what he was proposing to do
15 with it?
16 A No, I did not.
17 Q So did you have any discussions with Larry
18 Newton prior to January 2000 regarding David Corneal's
19 properties?
20 A No, not to -- no.
21 Q In January 2000 the moratorium was passed?
22 A Right.
23 Q You just stated you did not have any
24 conversations with Larry Newton regarding that moratorium;
25 is that correct?

217

1 A I said I couldn't recall.
2 Q You couldn't recall. Do you recall if any of
3 the supervisors asked you to research whether or not you
4 could -- they could pass such a moratorium?
5 A I don't recall how we came about that.
6 Q Typically if the supervisors wanted to do
7 something, such as pass a moratorium or pass a resolution or
8 pass an ordinance, would they ask you to research it?
9 A It depends. Sometimes.
10 Q Fifty percent of the time?
11 A Maybe.
12 Q Most of the time?
13 A I would say about 50 percent of the time.
14 Q You don't recall whether or not the
15 supervisors asked you to research whether they could pass a
16 moratorium?
17 A I don't recall how that happened.
18 Q When was the first time that you heard a
19 moratorium was going to be passed?
20 A I don't -- I don't know. I don't recall.
21 Q Did you show up at the January meeting and
22 somebody brought up the issue of a moratorium?
23 A I was at the January meeting.
24 Q That was the first time you heard about a
25 moratorium?

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1 A I don't recall.
2 Q And so we're clear, you had not heard of David
3 Corneal before January 2000?
4 A No.
5 Q The moratorium was passed on January 4th
6 during the meeting; is that correct?
7 A Right.
8 Q By a unanimous vote of the three supervisors?
9 A Yes.
10 Q Were you involved with that vote?
11 A I don't have a vote.
12 Q If you had sought the advice of Larry Newton,
13 do the supervisors typically take your advice or do they ask
14 Larry Newton themselves?
15 A Typically take my advice?
16 MR. SHERR: Make sure she can hear you.
17 THE WITNESS: Oh, you're still recording this?
18 MS. YANKANICH: Yes, we're still on the
19 record. You're still under oath.
20 MR. SHERR: She got it.
21 MS. YANKANICH: I'm not being confrontational
22 at all. I'm just letting her know that she's on the record.
23 MR. SHERR: I know you're not. She answered
24 the question.
25 BY MS. YANKANICH:

219

1 Q Oh, you answered my question. Typically if
2 you asked Larry Newton a question -- the supervisors asked
3 you to ask Larry Newton a question, do they come to you and
4 say what did he say or do they ask him themselves?
5 A I'd say it's about a fifty-fifty thing.
6 Q So if you went to Larry Newton and said can we
7 pass a moratorium in January and he says, let's just say,
8 yes, we can, you would report that back to the supervisors?
9 A If he did that, I would have.
10 Q And they would act upon that advice without
11 confirming it themselves typically?
12 A Sometimes, sometimes not.
13 Q Did Larry Newton tell you to enact a
14 moratorium?
15 A I don't recall how that came about.
16 Q You don't recall if it came about from a
17 supervisor or from Larry Newton?
18 A I don't recall how it came about.
19 Q On February 7th when David Corneal submitted
20 his subdivision plan to the three supervisors, do you recall
21 at the meeting before they denied it, do you recall if the
22 supervisors stopped the meeting, called their attorney,
23 Larry Newton, and discussed the matter with him before
24 refusing the denial?
25 A I know they didn't do that.

220

1 Q So they denied his subdivision plan prior to
2 calling Larry Newton on February 7th?
3 A Yes.
4 Q Did they at any time after the February 7th
5 meeting consult with Larry Newton regarding the first
6 subdivision plan that David Corneal submitted?
7 A I'm sure they did.
8 Q Were you present at any of those meetings?
9 A I don't recall.
10 Q Did you consult with Larry Newton after
11 February 7th regarding the first subdivision plan that David
12 Corneal submitted?
13 A I don't recall if I did or not.
14 Q You said that you thought the supervisors
15 did. Why do you think that?
16 A Somebody did.
17 Q How do you know that?
18 A Because he's been aware of what we've been
19 doing.
20 Q Was he aware from the beginning?
21 A I don't -- beginning of what?
22 Q February 7th is the first time you stated that
23 David Corneal came to your knowledge. You didn't know about
24 David Corneal and his property before then?
25 A No, I didn't.

221

1 Q So February 7th he walks into the meeting
2 where you're taking the minutes, he submits his plan and the
3 three supervisors deny it. Did somebody get on the phone
4 right after that and talk to Larry Newton to inform him,
5 hey, we've got to let you know what's going on here?
6 A You mean that night?
7 Q Anytime after February 7th.
8 A Yes, somebody did.
9 Q When was that?
10 A I don't know.
11 Q Do you know who it was?
12 A No.
13 Q How do you know that Larry Newton was aware of
14 the denial of the board on February 7th?
15 A I don't know if it's in one of these documents
16 -- I don't know. I don't know.
17 Q Your testimony is that you're sure he was
18 aware of what happened, what transpired at the February 7th
19 meeting with David Corneal, but you don't know how?
20 A I don't know how he got the information.
21 Q You're sure he knew about it?
22 MS. MONTGOMERY: I'm going to just -- I'm now
23 in the position that you were in. I can see that the court
24 reporter is struggling to hear. So can you keep your voice
25 up.

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1 THE WITNESS: I'm sorry.
2 BY MS. YANKANICH:
3 Q Let me just repeat my question. You're sure
4 that Larry Newton knows and knew right after the meeting
5 what transpired at the February 7th, 2000 meeting?
6 A I'm sure he knew. When he found -- we told
7 him, but when he found out I don't know.
8 Q Is it possible he found out about what
9 happened at that meeting after this lawsuit was enacted, was
10 initiated?
11 A You mean after July 4th?
12 Q Is it possible he found out after the county
13 sued David Corneal for violation of building against --
14 A Oh, no.
15 Q He knew before then?
16 A Oh, yeah.
17 Q Now, on April 4th David Corneal came to the
18 meeting to submit sewer modules. They were denied by the
19 board; is that correct?
20 A Yes.
21 Q Did the three supervisors stop the meeting and
22 seek advice from Larry Newton during the meeting?
23 A No.
24 Q Before that denial?
25 A No.

223

1 Q Did you at any time consult with Larry Newton
2 regarding the denial of the sewer modules on April 4th?
3 A At the meeting?
4 Q At the meeting.
5 A No.
6 Q How about after the meeting?
7 A Not at that time.
8 Q When did you consult with Larry Newton
9 regarding the sewer modules?
10 A I don't recall when we did that.
11 Q You know that you did?
12 A No, I don't know if we did. I don't know how
13 he found that out.
14 Q You believe that Larry Newton knows about the
15 board's denial of Mr. Corneal's submission of a sewer
16 module?
17 A Yes.
18 Q How do you think -- why do you believe he
19 knows about that?
20 A Because of all this paperwork. We all have
21 these big packs of paperwork now because of the lawsuit and
22 I believe it's in there, in my minutes.
23 Q So you believe he knows about it, but you
24 don't know when he found out?
25 A No.

224

1 Q You never told him what happened at that
2 meeting?
3 A I don't know if I did or not.
4 Q Is it customary after each meeting of the
5 supervisors to call Larry Newton?
6 A No.
7 Q So the January 4th meeting, it's not customary
8 to end the meeting and then call Larry Newton to discuss
9 the --
10 A No, it is not.
11 Q That would be unusual to do that?
12 A Yes, it would be.
13 Q So even though it's unusual, it doesn't stand
14 out in your mind that maybe somebody did that?
15 A No.
16 Q Mr. Corneal also requested a privy permit at
17 one of these meetings. I apologize, I forget the date that
18 he actually requested that permit. Do you recall?
19 A I think it was April.
20 Q Also April. It was denied as well; is that
21 correct?
22 A Yes.
23 Q Did you seek the advice of Larry Newton with
24 regard to the denial of that privy permit?
25 A No, I don't think that -- did I seek it?

225

1 Q Did you.
2 A No.
3 Q Are you aware if any of the supervisors sought
4 Larry Newton's approval before they denied the privy permit
5 requested by David Corneal?
6 A I am not aware of that.
7 Q The first time that David Corneal requested a
8 building permit -- I'm talking the first time -- did you
9 yourself seek the advice or guidance of Larry Newton
10 regarding that building permit request?
11 A I don't know whether -- I don't -- I don't
12 recall.
13 Q Do you remember discussing this at all with
14 Larry Newton?
15 A I'm sure I've discussed it all with him.
16 Q You've discussed the entire situation with
17 Larry Newton?
18 A At some time during this we've had a
19 discussion.
20 Q During the lawsuit?
21 A Yes.
22 Q Do you remember prior to the lawsuit talking
23 to Larry Newton about David Corneal?
24 A I probably did.
25 Q Can you give me any of the specifics of that

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1 conversation?
2 A No.
3 Q Did you ever ask him whether what the board
4 was doing was legal?
5 A I don't think I ever asked that question.
6 Q Did you ever ask him whether or not you could
7 deny a privy permit?
8 A I never asked it -- I don't think I ever asked
9 him that question.
10 Q When he came to you and said he was no longer
11 going to subdivide and he wanted to build a garage, did you
12 seek the advice of Larry Newton?
13 A You mean during the meeting or whatever?
14 Q I'm saying at any time.
15 A At any time?
16 Q At any time did you seek the advice of Larry
17 Newton on behalf of yourself or the board members with
18 respect to any requests by David Corneal with his property?
19 A We've asked his advice.
20 Q Give me some of the specifics of that advice.
21 A It's very hard to say because we talk about a
22 lot of things. You know, there's a lot of things going on
23 here and you're asking for those items and I can't honestly
24 testify to those items. We've talked about everything in --
25 after the lawsuit and before and I'm not sure.

227

1 Q So you're not certain that you've ever had a
2 conversation with Larry Newton before the lawsuit was
3 initiated?
4 A Oh, I've had conversations with Larry before
5 the lawsuit was initiated.
6 Q Conversations about David Corneal's property?
7 A Yes, I'm sure I've done that.
8 Q Were these conversations to just discuss David
9 Corneal or was it to just get his advice on how the board
10 should proceed with regard to David Corneal?
11 A To get his advice.
12 Q What advice specifically did the board need to
13 proceed?
14 A Before or after the lawsuit?
15 Q Before.
16 A I don't know. I can't give you a specific
17 before.
18 Q Well, you testified that you're certain you
19 had conversations with Larry Newton regarding advice the
20 board needed to proceed with regard to Mr. Corneal and what
21 he wanted to do with his property. Am I misstating your
22 testimony?
23 A No, I did say that, but I can't give you a
24 specific -- I can't tell you specifically what I would have
25 talked to him about.

228

1 Q When David Corneal came to the board meeting
2 and said it was illegal to have a moratorium, did you ask
3 Larry Newton about that?
4 A I probably did or somebody did.
5 Q Are you sure of that?
6 A No, I'm not sure.
7 Q Did you yourself ask him that?
8 A I don't remember.
9 Q There's a pretty specific chronology of events
10 that went on in this matter before the lawsuit was
11 initiated. There was the research for the ordinance and
12 then you imposed the moratorium. When I say you, I mean the
13 board. Then Mr. Corneal came on the scene and requested his
14 first subdivision plan to be approved.
15 You don't recall at any point during this
16 whether it was when he asked for his first subdivision plan
17 or his sewer module or his privy permit or his first
18 building permit, building application, or his second
19 building permit, whether or not you or any board member
20 sought the advice of Larry Newton?
21 A I'm -- you asked me to be specific and I can't
22 be specific. I don't remember.
23 Q Well, when I ask you a specific question, you
24 first tell me that you don't think you did and then I ask
25 you another question and you tell me you're certain that you

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1 had contact with Larry Newton. All I'm trying to find out
2 here, and I'm trying not to be confrontational, is when did
3 you talk to Larry Newton? When did you specifically talk to
4 Larry Newton?
5 A I don't remember.
6 Q Did any of the supervisors ever come to you
7 and say, hey, we need to find out whether or not we can do
8 this?
9 A I don't remember.
10 Q Not on any of this information?
11 A I remember talking to Larry, but I do not
12 specifically -- I can't give you specifics on this. I
13 can't.
14 Q How often does the board seek the advice of
15 Larry Newton?
16 A Under normal circumstances?
17 Q Under any other circumstance than the Corneal
18 circumstance.
19 A Not very often.
20 Q When would be a situation where they would
21 need to consult with Larry Newton?
22 A If we were going to do an ordinance. And we
23 had a problem with our one road, Miller Road is -- to be
24 specific, where the contractor came in and the road failed.
25 So we made -- we had to get after him and we filed a suit

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1 against him to come back and redo the road, which he did.
2 Q Did you ever consult with Larry Newton
3 regarding any other person who submitted a subdivision plan?
4 A Not to the best of my knowledge.
5 Q So David Corneal is the only person who
6 submitted a subdivision plan where you needed the advice and
7 guidance of Larry Newton?
8 A In the short period that I've been there, yes.
9 Q But you don't recall what any of that advice
10 was that you needed?
11 A Advice?
12 Q Yes.
13 A You're talking about before the lawsuit?
14 Q Yes, specifically I'd like to focus on before
15 the lawsuit at this point.
16 A I have no idea what we talked to him about.
17 MS. YANKANICH: Give me a second here. I'll
18 look through my notes.
19 (Pause.)
20 BY MS. YANKANICH:
21 Q When there was going to be an advertisement
22 for a meeting of the board, how was it determined whether or
23 not you would submit the notice, the advertisement, or Larry
24 Newton would submit the advertisement?
25 A You have to be specific.

231

1 Q Okay, if it is a -- if it was a regular
2 meeting of the board in January, would you advertise when
3 the meetings were going to be held?
4 A I did that.
5 Q If it was going to be a special meeting of the
6 board, how was it determined whether or not you or Larry
7 Newton would notify the public of that meeting?
8 A The only time Larry would ever advertise was
9 for an ordinance or something. I did everything else.
10 Q You stated earlier that Larry Newton is not
11 present at the township supervisor meetings; is that
12 correct?
13 A I said unless we request him.
14 Q Unless you requested him to be there; is that
15 correct?
16 A That's right.
17 Q Did you ever request him to be there with
18 regard to the David Corneal matter?
19 A No.
20 Q Do you know why any of the supervisors did not
21 impose the moratorium prior to January 2000?
22 A You'll have to ask them that.
23 Q Do you know if it was Larry Newton who
24 suggested that they do that in January 2000?
25 A I have no idea.

232

1 Q Did you talk with Larry Newton about whether
2 or not a moratorium should be imposed in January 2000?
3 A I think I've testified to that a couple times
4 today. I don't recall.
5 Q You testified earlier that you know of two
6 specific conversations you had with Larry Newton, one was a
7 conference call with the other supervisors present after the
8 lawsuit was initiated and the first was a telephone call
9 that you had with Larry Newton. Do you recall when that
10 contact occurred?
11 A July 4th.
12 Q What was the substance of that conversation?
13 A He called me to tell me he had been served
14 with a lawsuit.
15 Q Larry Newton called you?
16 A Yes.
17 Q What was the time of that conversation?
18 A I have no idea. Sometime during the day.
19 Q Did you make any notes of when -- of telephone
20 calls?
21 A No, this was on the 4th of July or 3rd of July
22 or something and I was at home. I was not in my office when
23 I got the phone call.
24 Q Do you typically make any telephones notes
25 when you receive a telephone call regarding township

233

1 business?
2 A No, I do not.
3 Q If you were sitting in your office right now,
4 is there anything that you would reference that could get me
5 the information to exactly what time and when this
6 conversation occurred?
7 A No.
8 Q No memos from the conversation?
9 A No.
10 Q You also stated previously that Jim Himes
11 would give information to Larry Newton and then Larry Newton
12 would call and I believe you said he would call you or the
13 supervisors; is that correct --
14 A Yes.
15 Q -- regarding the David Corneal matter?
16 A Yes.
17 Q Did he typically call you?
18 A Sometimes. Sometimes he calls one of the
19 supervisors.
20 Q What would he call you and discuss?
21 A Whatever is going on.
22 Q What kind of information was he getting from
23 Jim Himes?
24 A I don't think he was getting information. He
25 was -- Mr. Corneal was asking Jim Himes for -- it's in one

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1 of these memos here, some kind of information. You know, I
2 don't know if that was -- I don't know. It's in these
3 papers.

4 Q Was Larry Newton calling you to tell you to
5 provide that information to Mr. Corneal?

6 A I don't remember.

7 Q Do you remember what information Mr. Corneal
8 was seeking through Jim Himes?

9 A At one time I think he wanted a draft copy of
10 the ordinance.

11 Q So when Larry Newton instigated the phone call
12 to you or one of the supervisors, you don't recall what he
13 said?

14 A No.

15 Q Do you recall ever being directed by Larry
16 Newton to give a draft ordinance to Mr. Corneal?

17 A No, I do not recall.

18 Q Do you recall any of the telephone
19 conversations you had with Larry Newton prior to the
20 lawsuit?

21 A No.

22 Q Do you recall any other meetings that you had,
23 conference, meetings or otherwise, with the supervisors,
24 yourself and Larry Newton?

25 A Prior to the lawsuit?

236

1 the Corneal property?

2 A I don't know specifics. I just -- I would --
3 when I get a piece of information, I forward it to everybody
4 that needs it, that's what I do, and I can't tell you
5 specifics. It's probably half the documents in here.

6 Q Are you talking now after the litigation, once
7 you got a document in you would talk about it with Larry
8 Newton or are you talking about before?

9 A I'm talking about now with the litigation.

10 Q After the litigation. You said that you
11 discussed the -- or I'm sorry, the supervisors discussed the
12 driveway ordinance with Larry Newton; is that correct?

13 A I believe they did.

14 Q Do you recall any of the specifics of that
15 conversation?

16 A (Witness shook her head negatively.)

17 Q How about did they discuss the privy ordinance
18 with Larry Newton?

19 A I'm sure it was discussed with Larry.

20 Q Do you recall any of the specifics?

21 A No.

22 Q Do you recall whether or not they were asking
23 him whether they could pass such ordinances?

24 A I do not.

25 Q Is it customary to always seek Larry Newton's

235

1 Q Prior to the lawsuit.

2 A No, I do not.

3 Q You mentioned earlier that you have knowledge
4 of a sewage act, I believe you said it was, where if two
5 dwellings are on the same property it's considered an
6 equivalent subdivision; is that correct?

7 A That's right.

8 Q Do you have that -- is that your own
9 independent knowledge or did you get that advice from Larry
10 Newton?

11 A I didn't get that advice from Larry Newton.

12 Q That's your own independent knowledge?

13 A Yes.

14 Q You said that you kept Larry Newton informed
15 of what was happening with the Corneal property. Was it
16 primarily you who kept him informed?

17 A I can't testify as to whether the supervisors
18 talked to Larry or not.

19 Q I'm asking you whether or not you kept him
20 informed of what was happening with the Corneal property.

21 A I probably did.

22 Q When you say probably, are you certain that
23 you did?

24 A Of some things I'm sure I did.

25 Q Now, what specifically did you tell him about

237

1 advice before the board acts?

2 A No.

3 Q Is it rare that you would seek Larry Newton's
4 advice before the board acts?

5 A I wouldn't say it's rare.

6 Q How often do you seek Larry Newton's advice?

7 A Only when we have a problem.

8 Q Is David Corneal the only problem this
9 township has seen in a long time?

10 A No. No, I just told you about the road.

11 Q So other than the road, have you ever sought
12 Larry Newton's advice on any other resident of Jackson
13 Township?

14 A Residence?

15 Q Resident of Jackson Township.

16 A I can't recall.

17 Q I just want to go back a little bit over your
18 testimony that I think we weren't real clear on. At first I
19 believe your testimony was Larry Newton did not advise the
20 supervisors to initiate a lawsuit against Mr. Corneal. What
21 is your testimony with regard to who advised the supervisors
22 to initiate the lawsuit, if anyone did?

23 A I don't remember saying that.

24 Q With regard to the lawsuit that was initiated
25 against Mr. Corneal by the township, did anybody advise the

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1 supervisors to your knowledge to initiate that lawsuit?
 2 **A I do not know how that happened. I can't**
 3 **testify to that. I don't know who did that.**
 4 **Q** Were you ever present at a meeting where Larry
 5 Newton and any of the supervisors were present where Larry
 6 Newton gave that kind of advice?
 7 **A I don't recall.**
 8 **Q** You don't recall a meeting where that happened
 9 or that happening?
 10 **A Please repeat your question for me.**
 11 **Q** Okay. Were you ever present at a meeting
 12 where Larry Newton met with any of the supervisors and
 13 advised them to initiate a lawsuit against Mr. Corneal?
 14 **A I do not recall that.**
 15 **Q** Are you telling me you don't recall being at a
 16 meeting or that there wasn't -- what are you telling me you
 17 don't recall?
 18 **A I don't recall Larry advising us to issue --**
 19 **Q** Start this lawsuit?
 20 **A Start a lawsuit.**
 21 **Q** You don't recall him telling you to do that?
 22 **A I don't know how that happened.**
 23 **Q** But you're telling me you don't recall Larry
 24 Newton telling the township to do that?
 25 **A No.**

239

1 **Q** Do you recall any of the supervisors saying
 2 they needed to seek the advice of Larry Newton before they
 3 initiated this lawsuit?
 4 **A You'll have to ask them that.**
 5 **Q** You were never present when any of the
 6 supervisors stated that?
 7 **A I don't recall.**
 8 **Q** Did you ever discuss this -- the possibility
 9 of a lawsuit against David Corneal with any of the
 10 supervisors prior to the lawsuit being initiated?
 11 **A This lawsuit?**
 12 **Q** No, the first lawsuit where the township is
 13 suing Mr. Corneal. Did you ever talk to any of the
 14 supervisors before it was initiated?
 15 **A That's not the first lawsuit.**
 16 **Q** What was the first lawsuit?
 17 **A This is the first lawsuit.**
 18 **Q** I'm sorry, let me clarify. Did you ever talk
 19 to any of the supervisors directly about Mr. Corneal before
 20 they initiated a lawsuit against him for a violation of the
 21 building permit ordinance?
 22 **A Did I do that?**
 23 **Q** Did you ever talk with the supervisors before
 24 they started the lawsuit?
 25 **A I'm sure we talked about it.**

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1 **Q** Did they ask you whether or not they should do
 2 that?
 3 **A They wouldn't ask my advice.**
 4 **Q** They just talk with you about it?
 5 **A Yes.**
 6 **Q** Well, if I may ask, why is it that the
 7 supervisors consult with you when they don't take your
 8 advice and they -- and you work for them?
 9 **MR. SHERR:** Objection. You're asking her for
 10 somebody else's state of mind.
 11 **BY MS. YANKANICH:**
 12 **Q** Do you have an opinion as to why they seek
 13 your advice?
 14 **A No.**
 15 **Q** I apologize, I don't think I've asked you this
 16 question. Did you yourself ever discuss directly with Larry
 17 Newton the township's lawsuit against Mr. Corneal?
 18 **A Did I talk to Larry about it?**
 19 **Q** Yes.
 20 **A With the supervisors, without the supervisors**
 21 **or what?**
 22 **Q** Either one.
 23 **A I'm sure we have.**
 24 **Q** Do you recall any of the specifics of those
 25 conversations?

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1 **A No, I do not.**
 2 **Q** Do you recall of whether you had such a
 3 meeting?
 4 **A You asked me if I had a conversation.**
 5 **Q** Okay, I'm sorry. I apologize. Did you ever
 6 -- do you recall whether a conversation like that did
 7 happen?
 8 **A Yes.**
 9 **Q** Was it with you and Mr. Newton or with you and
 10 Mr. Newton and the supervisors?
 11 **A I'm sure it was with all of us.**
 12 **Q** And that was after the township sued Mr.
 13 Corneal?
 14 **A I don't think that's what you asked me.**
 15 **Q** That's what I asked you the first time. I'm
 16 asking you whether you had -- let me just restate the
 17 question.
 18 **A Okay.**
 19 **Q** Did you yourself discuss with Larry Newton
 20 directly, either in a meeting or a phone call, the lawsuit
 21 that the township initiated against Mr. Corneal?
 22 **A I have talked to Larry about it.**
 23 **Q** Do you recall any of the specifics of those
 24 conversations?
 25 **A No, I do not.**

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1 Q Do you recall whether that was a telephone
2 call or a meeting?
3 A I do not.
4 Q Do you recall whether any of the supervisors
5 were present?
6 A I don't -- I don't recall.
7 Q With reference to Exhibit 14, if you would --
8 I would actually like you to reference the specific exhibit,
9 if I may. I just have a question as to whose notation that
10 is. I didn't hear if Miss Montgomery asked you this. With
11 regard to Exhibit 14, is that your handwriting that says --
12 A No.
13 Q -- copy sent to Newton?
14 A No, it is not.
15 Q Do you know whose handwriting that is?
16 A I have no idea.
17 Q When Mr. Van Dommelen -- let's specifically
18 reference Exhibit 15. I'm going to show you Exhibit 15. If
19 you would refer to Exhibit 15 during your answer, please.
20 In this letter from David Corneal to Mr. Van Dommelen he
21 states that Mr. Van Dommelen refused to give him a building
22 permit application and that he did so on the advice of the
23 supervisors.
24 Do you recall -- were you present at any time
25 when the supervisors called Larry Newton? Let me rephrase

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1 that. Do you know if the supervisors ever consulted Larry
2 Newton with regard to whether or not they should advise Mr.
3 Van Dommelen to not issue such an application?
4 A I don't know.
5 Q You don't know if they ever called Larry
6 Newton to ask him that?
7 A I don't know.
8 Q Were you aware that Mr. Van Dommelen refused
9 to give Mr. Corneal an application?
10 A I think I've already testified to that.
11 Q I'm sorry, what was your answer?
12 A Yes.
13 Q You were aware that -- you knew he refused to
14 do so?
15 MR. SHERR: You don't have to repeat it
16 again. She said yes. Let's move on, please.
17 MS. YANKANICH: I'm just trying to clarify for
18 myself.
19 BY MS. YANKANICH:
20 Q You were aware that he was refused an
21 application, is that your answer?
22 A It was in the paperwork here, yes.
23 Q That's when you became aware of it. Is there
24 any other time prior to the initiation of the lawsuit that
25 you can remember seeking the advice of Larry Newton for any

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1 reason with regard to Mr. Corneal's property that I haven't
2 asked you about?
3 A You're going to have to tell me that one
4 again.
5 Q Do you recall any other time that you sought
6 the advice of Larry Newton with regard to David Corneal's
7 property that I may not have asked you about?
8 A No.
9 MS. YANKANICH: Thank you. I have no further
10 questions.
11 MS. THORP: No questions.
12 MR. SHERR: Anything else?
13 MS. MONTGOMERY: I just have a follow-up or
14 two. Do you have anything?
15 MR. SHERR: No.
16
17 REDIRECT EXAMINATION
18
19 BY MS. MONTGOMERY:
20 Q Just generally, you were asked a series of
21 questions by Mr. Newton's counsel about whether or not when
22 you spoke with Larry Newton you were seeking his advice,
23 okay, and I want to just ask a general question.
24 Typically when you speak to Larry Newton are
25 you speaking to him just as a friend or is it on township

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1 business? Do you speak to him on township business or are
2 you speaking to him just as a friend or are you speaking to
3 him as the township's counsel?
4 A As the township's counsel.
5 Q Do you expect then that if there is anything
6 that you are telling him that he ought to have advice on and
7 he'll give you that advice? Is that your expectation when
8 you talk to him?
9 A I would assume.
10 Q You would assume that he would give you advice
11 if anything you tell him raises any concerns with him; is
12 that your testimony?
13 A Yes.
14 Q You know, you had mentioned earlier that you
15 lived in Camp Hill prior to what, 11 years ago?
16 A Yes.
17 Q And did you work here?
18 A I'm retired from the state.
19 Q What did you do at the state?
20 A I was the cash desk for the Treasury
21 Department for 25 years.
22 Q Have you ever had any conversations with Larry
23 -- with an attorney who shares Mr. Newton's law offices?
24 A No.
25 Q Do you know who Mr. Reeder is?

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1 A I know his name. I don't know who he is.
2 Q You've never met him?
3 A No.
4 Q You never talked to him?
5 A No.
6 Q You never corresponded with him?
7 A No.
8 Q Now that the township has these ordinances --
9 well, now, let me back up a second. The township has five
10 ordinances, I believe you said, right?
11 A Four.
12 Q Four?
13 A I think it's four.
14 MR. SHERR: You mentioned five.
15 BY MS. MONTGOMERY:
16 Q I think you mentioned five.
17 A Five, okay.
18 Q And you say you keep them in your office, you
19 keep a copy of each of them in your office?
20 A Yes, they're in my office.
21 Q Where do you keep them?
22 A The subdivision ordinance is in a binder,
23 which I told you earlier, along with the privy and the
24 driveway ordinance. The building permit ordinance is in an
25 ordinance file.

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1 Q What's an ordinance file?
2 A It's just a file that says ordinance.
3 Q It's like a collapsible folder or something?
4 A It's just a manila folder.
5 Q A manila folder that says ordinance. And the
6 fifth ordinance?
7 A I'm so confused here. There's a subdivision
8 ordinance, a driveway ordinance, a privy ordinance and a
9 building permit ordinance.
10 MR. CORNEAL: Agriculture.
11 THE WITNESS: Oh, I'm sorry. Thank you,
12 agriculture security. That's in a separate folder because
13 that's a whole other issue.
14 BY MS. MONTGOMERY:
15 Q Is it in a manila folder also?
16 A Yes.
17 Q Do you keep an ordinance book, like one book
18 of all the ordinances?
19 A No.
20 Q I'm going to show you a document that we're
21 going to mark as Wirth 16 and this is a January 31, 2000
22 letter from David Corneal addressed to Mr. Newton.
23 (Letter dated 1/31/00 produced and marked as
24 Wirth Exhibit No. 16.)
25 (Discussion held off the record.)

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1 BY MS. MONTGOMERY:
2 Q Did you have a chance to look at that letter?
3 A Yes, I did.
4 Q Have you seen the letter before?
5 A I don't recall if I've seen it before or not.
6 Q Do you know whether you were given a copy of
7 the letter at the time that it was written, which I think
8 the date of it is January 31st, 2000?
9 A I just said I don't recall if I've ever seen
10 the letter before.
11 Q Do you recall ever discussing with Mr. Newton
12 his receipt of that letter from Mr. Corneal?
13 A I don't recall that.
14 Q Well, look at the contents of the letter
15 then. Now that you've had a chance to look at this letter
16 from David Corneal to Mr. Newton, do you recall ever talking
17 to Mr. Newton about the particular issues in this letter?
18 And we'll start at the beginning, the approval of his
19 subdivision.
20 A I don't recall.
21 Q What about -- do you know whether or not Mr.
22 Simpson dropped off a copy of the plan at Mr. Newton's
23 office?
24 A I believe I testified earlier I don't know how
25 that happened.

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1 Q And in this letter Mr. Corneal tells Mr.
2 Newton that there is urgency of approval, in that the
3 Hewetts have a loan commitment for settlement at the end of
4 February. Do you recall whether or not Mr. Newton called
5 the township offices to discuss any sort of urgency of
6 approval of Mr. Corneal's subdivision?
7 A I don't recall that.
8 Q Do you know whether the supervisors got a copy
9 of this letter?
10 A You'll have to ask them.
11 Q I'm going to show you one other letter then
12 and we're going to mark it as Wirth 17.
13 (Letter dated 7/28/00 produced and marked as
14 Wirth Exhibit No. 17.)
15 BY MS. MONTGOMERY:
16 Q Have you seen this letter before?
17 A Yes, I have.
18 Q When did you see it?
19 A I don't know, but I've seen it.
20 Q Do you see where it says Jackson Township
21 Board of Supervisors down there in the cc line?
22 A Right.
23 Q Did the letter come to you?
24 A I would assume it did. I don't know for sure.
25 Q Do you have a copy of this letter in your

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1 files?
2 A Yes, I've seen this letter in my files.
3 Q Did you produce it to us?
4 A I don't know whether I did or not.
5 Q Now that you're looking at these two letters,
6 the letter to Mr. Newton from Mr. Corneal in January 2000
7 and the letter from Mr. Newton to the Corneals on July 28,
8 2000, do you recall whether or not you spoke with Mr. Newton
9 in between -- in that time frame, from January to July, to
10 seek advice about how the Corneals were dealing with their
11 property or about how to deal with the Corneals in
12 connection with their property? Does that help you
13 remember?
14 A What?
15 Q I'm trying to get you down to a time frame
16 about when you spoke to Mr. Newton. Mr. Newton's counsel
17 was trying to talk to you about whether you spoke to him
18 prior to the initiation of this lawsuit.
19 A I'm sure I -- I'm sure I testified that we
20 have talked, but I don't know when or what about.
21 Q You testified that you're sure you talked to
22 Mr. Newton about the Corneals prior to the lawsuit; is that
23 correct?
24 A I believe I said that earlier.
25 Q Do these letters -- reviewing these letters

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1 and this is addressed to Mr. Newton's counsel. Do you
2 consider Mr. Newton to be under the sequestration order that
3 the judge entered for purposes of talking to the other
4 defendants about the substance of the depositions?
5 MS. YANKANICH: Let me review the order and
6 then I'll get you an answer. Can we go off the record
7 briefly?
8 MS. MONTGOMERY: Sure.
9 (Discussion held off the record.)
10 (The deposition was concluded at 4:27 p.m.)
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1 help you remember at all when you might have spoken to Mr.
2 Corneal about the Corneal -- I'm sorry, to Mr. Newton about
3 the Corneal's property?
4 A No, it doesn't.
5 MS. MONTGOMERY: I don't have any other
6 questions.
7 MS. YANKANICH: I have one last question.
8 It's just a bookkeeping matter.
9
10 RECROSS-EXAMINATION
11
12 BY MS. YANKANICH:
13 Q With reference to Exhibit 15 on page 2 -- or
14 actually maybe it's Exhibit 14. Let me look. Yes, Exhibit
15 14. I'd asked you on the first page of Exhibit 14 whether
16 or not the handwritten message that says copy sent to Newton
17 was your signature and you stated that it was not; is that
18 correct?
19 A No, I didn't write that.
20 Q On the second page of Exhibit 14 is copy sent
21 to Newton your signature -- your handwriting?
22 A No.
23 MS. YANKANICH: Thank you. I have no further
24 questions.
25 MS. MONTGOMERY: Another housekeeping matter,

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1
2 COUNTY OF DAUPHIN :
3 : SS
4 COMMONWEALTH OF PENNSYLVANIA :
5 I, Teresa K. Bear, Reporter-Notary Public,
6 authorized to administer oaths within and for the
7 Commonwealth of Pennsylvania and take depositions in the
8 trial of causes, do hereby certify that the foregoing is the
9 testimony of ANN WIRTH.
10 I further certify that before the taking of
11 said deposition, the witness was duly sworn; that the
12 questions and answers were taken down stenographically by
13 the said Teresa K. Bear, a Reporter-Notary Public, approved
14 and agreed to, and afterwards reduced to typewriting under
15 the direction of the said Reporter.
16 I further certify that the proceedings and
17 evidence are contained fully and accurately to the best of
18 my ability in the notes taken by me on the within
19 deposition, and that this copy is a correct transcript of
20 the same.
21 In testimony whereof, I have hereunto
22 subscribed my hand this 31st day of May, 2001.
23
24 Teresa K. Bear, Reporter
25 Notary Public
My commission expires
on April 13, 2003

Exhibit 5

VAN DOMMELEN, DAVID
06/06/01

CORNEAL VS
JACKSON TOWNSHIP

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 VS : NO. 1:CV-00-1192
7 JACKSON TOWNSHIP, HUNTINGDON :
8 COUNTY, PENNSYLVANIA; W. :
9 THOMAS WILSON, individually :
10 and in his official capacity :
11 as Supervisor of Jackson :
12 Township; MICHAEL YODER, :
13 individually and in his :
14 official capacity as :
15 Supervisor of Jackson :
16 Township; RALPH WEILER, :
17 individually and in his :
18 official capacity as :
19 Supervisor of Jackson :
20 Township; BARRY PARKS, :
21 individually and in his :
22 official capacity as Sewage :
23 Enforcement Officer of :
24 Jackson Township; DAVID :
25 VAN DOMMELEN, individually :
26 and in his official capacity :
27 as Building Permit Officer; :
28 ANN L. WIRTH, individually :
29 and in her official capacity :
30 as Secretary of Jackson :
31 Township; and LARRY NEWTON, :
32 individually and in his :
33 official capacity as :
34 Solicitor to Jackson :
35 Township, :
36 DEFENDANTS :
37 DEPOSITION OF: DAVID VAN DOMMELEN
38 TAKEN BY: PLAINTIFFS
39 BEFORE: TERESA K. BEAR, REPORTER
40 NOTARY PUBLIC
41 DATE: JUNE 6, 2001, 9:44 A.M.
42 PLACE: ECKERT SEAMANS
43 213 MARKET STREET
44 HARRISBURG, PENNSYLVANIA

VAN DOMMELEN, DAVID
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CORNEAL VS
JACKSON TOWNSHIP

| | |
|---|---|
| <p>1 APPEARANCES: 2 ECKERT SEAMANS BY: BRIDGET E. MONTGOMERY, ESQUIRE 3 LESLIE A. MALADY, ESQUIRE 4 FOR - PLAINTIFFS 5 MAYERS, MENNIES & SHERR, LLP BY: ANTHONY R. SHERR, ESQUIRE 6 FOR - ALL DEFENDANTS EXCEPT NEWTON 7 8 METTE, EVANS & WOODSIDE BY: JENNIFER YANKANICH, ESQUIRE 9 FOR - DEFENDANT - LARRY NEWTON 10 THOMAS, THOMAS & HAFFER BY: MICHELE J. THORP, ESQUIRE 11 FOR - DEFENDANT - WEILER 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> | <p>2 4 1 DAVID VAN DOMMELEN, called as a witness, being 2 sworn, testified as follows: 3 4 DIRECT EXAMINATION 5 6 BY MS. MONTGOMERY: 7 Q Mr. Van Dommelen, we met a few moments ago but 8 for the record I'll identify myself. I'm Bridget 9 Montgomery. 10 A You'll have to speak louder because I'm hard 11 of hearing. 12 Q Okay. My name is Bridget Montgomery and I 13 represent the Corneals in this action. I have a couple 14 questions and instructions for you about depositions in 15 general. So I need to ask you first have you ever been 16 deposed before? 17 A To where? 18 Q Have you ever been deposed before? 19 A No. 20 Q Then I will just give you a little bit of 21 information about the deposition. We're here to ask you 22 factual questions relevant to this lawsuit or likely to lead 23 to relevant information about this lawsuit. 24 One of the things that you need to do is make 25 sure that you give verbal responses. You need to say yes or</p> |
| <p>3 1 TABLE OF CONTENTS 2 WITNESS 3 FOR PLAINTIFFS DIRECT CROSS REDIRECT 4 David Van Dommelen By Ms. Montgomery 4 -- 185 5 By Ms. Yankanich -- 183 -- 6 7 EXHIBITS 8 VAN DOMMELEN EXHIBIT NO. PRODUCED AND MARKED 9 1 - Letter dated 5/5/00 79 10 2 - Letter dated 10/10/00 79 11 3 - Packet of documents 79 12 4 - Suggested ideas 91 13 5 - Application for building permit 100 14 6 - Application for building permit 145 15 7 - Application for building permit 148 16 8 - Application for building permit 151 17 9 - Applications for building permits 153 18 10 - Four-page document 164 19 11 - Letter dated 9/1/00 171 20 21 22 23 24 25</p> | <p>5 1 no or, you know -- no shakes of the head, you know, no nods 2 of the head because the court reporter needs to hear you so 3 that she can take your responses down. 4 If you don't understand a question that I ask 5 you, you can ask me to repeat it or rephrase it. I want you 6 to understand what it is I'm asking you. If you need to 7 take a break to go to the rest room or something like that 8 or get a glass of water, you can do that as well. You can't 9 confer with your counsel about your answers but you can take 10 a break and, you know, go and do whatever you need to do. 11 Are you on any medication today that would 12 prevent you from understanding and answering my questions? 13 A I'm on medication. 14 Q And what kind of medication is that? 15 A Quibron, and that's an asthmatic, and I'm on 16 Altace for high blood pressure, and I'm on Vilosec and I 17 take Proventil, which is a mist, a mister. 18 Q Are those all asthma related -- 19 A All except for the -- 20 Q -- medications? 21 A All except for the Altace which is for high 22 blood pressure. 23 Q One other instruction I'll give you. For the 24 sake of the court reporter and for the sake of clarity, you 25 need to let me finish my questions and I'll let you finish</p> |

VAN DOMMELEN, DAVID
06/06/01

CORNEAL VS
JACKSON TOWNSHIP

6

1 your answers so that she can -- so we're not talking at the
 2 same time, okay?
 3 A Fine.
 4 Q Back to your medications for a second. Do any
 5 of those medications affect your ability to understand
 6 someone talking to you or a question or an issue?
 7 A As far as I know, no.
 8 Q None of them are sleep inducing medications or
 9 anything like that?
 10 A No.
 11 Q Mr. Van Dommelen, where do you live?
 12 A I live on Allan Seegar Road three miles
 13 outside of McAlevys Fort in Pennsylvania.
 14 Q Where is that in relation to, for example, the
 15 Jackson Township town office on Ann Wirth's property?
 16 A It's approximately four miles from the
 17 township office.
 18 Q Are you familiar with David Corneal?
 19 A Yes.
 20 Q And you're familiar with the property owned by
 21 David Corneal --
 22 A Yes.
 23 Q -- in Jackson Township?
 24 A Yes.
 25 Q Where is your home in relation to Mr.

8

1 Q Do you live there?
 2 A Yes.
 3 Q Do you camp out?
 4 A No. Heavens, no.
 5 Q Well, you live there for free, apparently, in
 6 a residence --
 7 A Yes.
 8 Q -- in a house? Let's talk a little bit about
 9 your educational background. What is the highest level of
 10 education that you completed?
 11 A A Master's degree.
 12 Q In?
 13 A In art.
 14 Q And where did you complete that Master's
 15 degree?
 16 A Michigan State University.
 17 Q So you graduated from high school out in
 18 Michigan; is that correct?
 19 A Pardon?
 20 Q You graduated from high school out in
 21 Michigan?
 22 A Yes.
 23 Q And where did you go to college?
 24 A Well, I went to -- I went to interior design
 25 school in Chicago and then I went to Michigan State for my

7

1 Corneal's property in Jackson Township?
 2 A It's to the north and about three miles from
 3 his property.
 4 Q Is it on the same road?
 5 A No.
 6 Q How long have you lived at your current
 7 address?
 8 A I believe 20 years.
 9 Q Where did you live prior to that?
 10 A In State College, Pennsylvania.
 11 Q Are you a native of State College?
 12 A No.
 13 Q Are you a native of Jackson Township?
 14 A No.
 15 Q Where are you from?
 16 A I'm from Michigan.
 17 Q Oh, you are, okay. So you've been in Jackson
 18 Township then for 20 years?
 19 A I believe 20 years.
 20 Q Do you own property there?
 21 A No.
 22 Q Do you own a home there?
 23 A No.
 24 Q You rent?
 25 A No.

9

1 undergraduate and for my graduate degree.
 2 Q What's the interior design school that you
 3 went to?
 4 A Harrington Institute of Interior Design.
 5 Q Was that a two-year program or --
 6 A It was a two-year program.
 7 Q Did it lead to an associates degree or
 8 something?
 9 A Pardon?
 10 Q Did it lead to an associate degree or --
 11 A I got a diploma, interior design diploma.
 12 Q Like a certificate of --
 13 A Yes, right.
 14 Q And then you went from there to Michigan State
 15 University?
 16 A No, I went to the Army.
 17 Q Oh, okay. When was that?
 18 A In 1952.
 19 Q So you went into the Army for a few years
 20 and --
 21 A For two years.
 22 Q Two years. And then did you start your
 23 education after that?
 24 A Then I --
 25 Q Or continue your education after that?

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CORNEAL VS
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|---|---|
| <p style="text-align: right;">10</p> <p>1 A Yes, after that I continued my education.</p> <p>2 Q So do you have a four-year degree from</p> <p>3 Michigan State?</p> <p>4 A Yes.</p> <p>5 Q And then a Master's degree?</p> <p>6 A Yes.</p> <p>7 Q And is that the highest degree of education</p> <p>8 you completed then, the Master's at Michigan State?</p> <p>9 A Yes.</p> <p>10 Q What did you do with that degree then once you</p> <p>11 got it? What sort of employment did you seek?</p> <p>12 A Well, I taught first in elementary schools and</p> <p>13 then I was invited to go to Penn State to teach and I taught</p> <p>14 at -- in the College of Home Economics for quite a few years</p> <p>15 and then the College of Arts and Architecture.</p> <p>16 Q So you have an elementary teaching license as</p> <p>17 well -- you had one at least --</p> <p>18 A Yes, I had one.</p> <p>19 Q -- in Michigan?</p> <p>20 A Um-hum.</p> <p>21 Q How long did you teach?</p> <p>22 A In elementary?</p> <p>23 Q Yes.</p> <p>24 A Two years, I believe.</p> <p>25 Q And then you came to State College after that?</p> | <p style="text-align: right;">12</p> <p>1 A No, no, we had been in Jackson Township since</p> <p>2 '82. I have my studio there, too.</p> <p>3 Q Okay.</p> <p>4 A Because I'm a practicing artist.</p> <p>5 Q What kind of art do you do?</p> <p>6 A Fiber art.</p> <p>7 Q What is fiber art?</p> <p>8 A Weaving, surface painting on fiber, sewing</p> <p>9 machine work on fiber.</p> <p>10 Q So during the time that you were teaching at</p> <p>11 Penn State, you moved to Jackson Township; is that correct?</p> <p>12 A Yes.</p> <p>13 Q And in Jackson Township you have a studio on</p> <p>14 this same piece of property --</p> <p>15 A Right.</p> <p>16 Q -- that you live at?</p> <p>17 A We have 40 acres of property.</p> <p>18 Q Who owns that property?</p> <p>19 A My daughter and my son.</p> <p>20 Q Did you ever own that property?</p> <p>21 A Yes.</p> <p>22 Q When did you buy it?</p> <p>23 A In '81.</p> <p>24 Q And did you sell it to your son and daughter?</p> <p>25 A Pardon?</p> |
| <p style="text-align: right;">11</p> <p>1 A Yes.</p> <p>2 Q What year was that?</p> <p>3 A That was in 1959.</p> <p>4 Q And how long did you teach at Penn State?</p> <p>5 A For over 25 years.</p> <p>6 Q So that takes you up to about 1984?</p> <p>7 A Eighty-eight.</p> <p>8 Q Oh, 1988?</p> <p>9 A Yes. I also had an interim of two years at</p> <p>10 the University of Maine.</p> <p>11 Q Did you come to State College and then go to</p> <p>12 Maine and then come back?</p> <p>13 A Yes.</p> <p>14 Q Understood. So you say -- I believe you</p> <p>15 testified that you taught home economics?</p> <p>16 A Well, that's where I started teaching. That's</p> <p>17 where art and interior design was, in home economics.</p> <p>18 Q And then what?</p> <p>19 A And then I moved over to arts and</p> <p>20 architecture.</p> <p>21 Q And so that takes you up to 1988. Did you</p> <p>22 retire then?</p> <p>23 A Yes, I retired then.</p> <p>24 Q Is it at that point that you moved to Jackson</p> <p>25 Township? I forget how long you said you had been there.</p> | <p style="text-align: right;">13</p> <p>1 Q Did you sell it to your son and daughter or</p> <p>2 convey it or --</p> <p>3 A No, we gave it to them.</p> <p>4 Q You gave it to them?</p> <p>5 A Um-hum.</p> <p>6 Q When did you do that?</p> <p>7 A I'm not sure if I can remember. It must have</p> <p>8 been 10 years ago.</p> <p>9 Q So it is 40 acres?</p> <p>10 A It's not quite 40 acres.</p> <p>11 Q How many houses are on it?</p> <p>12 A Just the -- our house and the studio.</p> <p>13 Q When you say our house, you mean your wife and</p> <p>14 you?</p> <p>15 A Yes.</p> <p>16 Q Did you build the house?</p> <p>17 A Part of it.</p> <p>18 Q There was an existing structure there?</p> <p>19 A There was a structure and then we added on to</p> <p>20 it when we moved out there because it did not have indoor</p> <p>21 plumbing and ...</p> <p>22 Q Right.</p> <p>23 MS. MONTGOMERY: Just let the record reflect</p> <p>24 that Michele Thorp is joining the deposition.</p> <p>25 BY MS. MONTGOMERY:</p> |

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| | |
|--|---|
| <p style="text-align: right;">14</p> <p>1 Q And then did you build the art studio?</p> <p>2 A Yes.</p> <p>3 Q When did you build that?</p> <p>4 A In '82.</p> <p>5 Q How big is that structure, do you know?</p> <p>6 A It's 20 feet by 40 feet.</p> <p>7 Q Is it one-story?</p> <p>8 A Yes.</p> <p>9 Q Does it have indoor plumbing?</p> <p>10 A No.</p> <p>11 Q Does it have electricity?</p> <p>12 A Pardon?</p> <p>13 Q Does it have electricity?</p> <p>14 A Yes.</p> <p>15 Q Are there any other structures on the</p> <p>16 property?</p> <p>17 A No.</p> <p>18 Q Are you currently employed?</p> <p>19 A In my studio, yes.</p> <p>20 Q Well, let me ask you the question a little bit</p> <p>21 differently. I think you said you retired from Penn</p> <p>22 State --</p> <p>23 A Yes.</p> <p>24 Q -- in 1988?</p> <p>25 A Yes.</p> | <p style="text-align: right;">16</p> <p>1 A It must have been 1990.</p> <p>2 Q How did you come to become the building permit</p> <p>3 officer?</p> <p>4 A The current -- one of the current supervisors</p> <p>5 asked me if I would like to be that and I said not really</p> <p>6 but they persuaded me and so I took over the job.</p> <p>7 Q How did you -- well, do you know which</p> <p>8 building supervisor asked you to take the job?</p> <p>9 A Pardon?</p> <p>10 Q Can you tell me which building --</p> <p>11 A Yes, it was Gary Wilson.</p> <p>12 Q He's no longer a supervisor?</p> <p>13 A No.</p> <p>14 Q Is he related to the current Wilson</p> <p>15 supervisor?</p> <p>16 A They might be far cousins.</p> <p>17 Q Were you friends with Gary Wilson, is that how</p> <p>18 he came to ask you?</p> <p>19 A Neighbors.</p> <p>20 Q So you've been the building permit officer</p> <p>21 since 1990, correct?</p> <p>22 A I believe that's ...</p> <p>23 Q Has there been any breaks in your service</p> <p>24 since --</p> <p>25 A Any what?</p> |
| <p style="text-align: right;">15</p> <p>1 Q Did you have employment elsewhere after you</p> <p>2 retired from Penn State?</p> <p>3 A No, except self-employment.</p> <p>4 Q Are you involved somehow with Jackson</p> <p>5 Township?</p> <p>6 A Yes.</p> <p>7 Q In what capacity?</p> <p>8 A The building permit officer.</p> <p>9 Q Do you consider that employment?</p> <p>10 A I suppose I would have to say yes.</p> <p>11 Q Is it a paid --</p> <p>12 A But not for very much money.</p> <p>13 Q Is it a paid position?</p> <p>14 A I get a percentage of each building permit and</p> <p>15 that averages to about \$450 a year.</p> <p>16 Q What percentage of each building permit do you</p> <p>17 get?</p> <p>18 A I think it's -- I can't remember. My wife</p> <p>19 does all that. I think it's eight percent, I believe.</p> <p>20 Q Is that the only compensation given in</p> <p>21 connection with your services as the building permit</p> <p>22 officer?</p> <p>23 A Yes.</p> <p>24 Q When did you first become the building permit</p> <p>25 officer for Jackson Township?</p> | <p style="text-align: right;">17</p> <p>1 Q Any breaks in your service since 1990 as the</p> <p>2 building permit officer?</p> <p>3 A No.</p> <p>4 Q Who do you report to as the building permit</p> <p>5 officer?</p> <p>6 A To the supervisors.</p> <p>7 Q How do you report?</p> <p>8 A I go to the supervisor's meeting once a</p> <p>9 month. It's a public meeting.</p> <p>10 Q And is that the public meeting that's held at</p> <p>11 Ann Wirth's -- in the building on Ann Wirth's property?</p> <p>12 A No, no.</p> <p>13 Q No?</p> <p>14 A It's held in the fire hall.</p> <p>15 Q In the fire hall, okay. What exactly are your</p> <p>16 responsibilities as the building permit officer?</p> <p>17 A To issue building permits to any resident that</p> <p>18 comes to me.</p> <p>19 Q Well, what do you do to determine whether you</p> <p>20 should issue a building permit?</p> <p>21 A They must have appropriate septic approval, if</p> <p>22 it's going to be a house that has the need for a septic</p> <p>23 system. And if they are going to subdivide, they must have</p> <p>24 the appropriate subdivision papers.</p> <p>25 Q What about if they're not going to subdivide</p> |

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1 and they're not going to build a house, then would you need
 2 a septic?

3 **A Well, then if they're just building a garage,**
 4 **I'd give them a permit -- I'd issue a permit rather.**

5 **Q** Do you have some kind of ordinance that you
 6 follow or some kind of rule book?

7 **A Yes, we do have a set of ordinances.**

8 **Q** What are those ordinances?

9 **A Well, that you must have a septic system and**
 10 **that you must -- a building permit is good for one year and**
 11 **if you're going to subdivide that you have the correct**
 12 **subdivision. You must also have the correct road connection**
 13 **permit.**

14 **Q** Do you have a building or anything that you
 15 use in connection with your work?

16 **A No.**

17 **Q** Do you operate out of the house that you live
 18 in?

19 **A Yes.**

20 **Q** I asked you a moment ago what ordinances you
 21 follow and you gave me an answer, but I'm asking you
 22 something a little bit different. The question I'm asking
 23 you is: Do you follow a particular ordinance that's, you
 24 know, like a collected set of pages that tells you what to
 25 do in connection with your duties?

19

1 **A Yes, we do have a building ordinance.**

2 **Q** A building permit ordinance?

3 **A Permit ordinance, yeah, um-hum.**

4 **Q** And you follow that?

5 **A Yes.**

6 **Q** Do you keep a copy of it in your house?

7 **A Yes.**

8 **Q** Now, typically when someone comes and asks you
 9 for a building permit, exactly what do you do?

10 **A I find out if they have the appropriate**
 11 **papers. And if they don't need septic and if they don't**
 12 **need subdivision, then I have them sit down and fill out a**
 13 **building permit application and I then type from that to the**
 14 **tax assessment forms that we send into the county for tax**
 15 **assessment and then I issue a building permit.**

16 **Q** And you can do that all in one day?

17 **A Yes.**

18 **Q** Do you typically do it all in one day?

19 **A Yes, typically I think I would say all in one**
 20 **day.**

21 **Q** Do you keep the applications at your home?

22 **A I do.**

23 **Q** Are citizens required to come to your home to
 24 get an application?

25 **A Yes.**

20

1 **Q** So do they have -- I mean, are you listed in
 2 the telephone book or something as the building permit
 3 officer?

4 **A No.**

5 **Q** How does the citizen find out about you?

6 **A I suppose they call our secretary or word of**
 7 **mouth that I'm the building permit officer.**

8 **Q** So do they call you and ask you for an
 9 appointment?

10 **A Sometimes. Sometimes they just show up.**

11 **Q** So do you typically go inspect the property
 12 that someone is asking for a permit?

13 **A In the ordinance I can do that if I can go**
 14 **onto the grounds and even if it says no trespassing I can go**
 15 **on the grounds and inspect whatever is being done, and**
 16 **sometimes I do and sometimes I don't. It depends on what**
 17 **the issue is.**

18 **Q** Under what circumstances are you permitted to
 19 inspect a property?

20 **A Well, if I have a feeling that something is**
 21 **not correct, then I might go and look and see if it fits**
 22 **what they put on their application.**

23 **Q** I see. What would give you a feeling that
 24 something is not correct?

25 **A I don't know, a gut feeling.**

21

1 **Q** Well, let me ask you this: How many
 2 properties have you actually gone to inspect in connection
 3 with applications for building permits?

4 **A I don't think I can answer that.**

5 **Q** Can you estimate?

6 **A Twenty-five.**

7 **Q** In the 10 years?

8 **A Yeah.**

9 **Q** Or actually it's 11 years, isn't it?

10 **A Yeah.**

11 **Q** That you've been the building permit officer?

12 **A Yes.**

13 **Q** You're not required to check each property --

14 **A No.**

15 **Q** -- is that correct?

16 **A No.**

17 **Q** Would you typically inspect a property if it
 18 didn't require septic or if it didn't involve a subdivision?

19 **A Probably not.**

20 **Q** So how much does it cost to get the building
 21 permit application and fill it out?

22 **A It depends on how much is being spent for the**
 23 **structure. The cheapest one is \$15 and the most expensive**
 24 **goes up to \$70. So it's a graduated scale. So a house**
 25 **that's being built for \$450,000, then the building permit**

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1 would be 70.
 2 Q How do you determine how much is going to be
 3 spent on building the house or other structures?
 4 A Well, that is -- that is determined by the
 5 person when they fill out their application. They give me
 6 an estimate. Then the tax assessors come out and check
 7 after the structure is finished.
 8 Q So after you issue a building permit, what do
 9 you do with the permit itself? Do you give the permit to
 10 the person and keep a copy?
 11 A I give them a large permit that they are to
 12 put on the structure while they're building it and then I
 13 send the tax assessment, along with the check, to Ann Wirth,
 14 our secretary, and she then in turn sends it to the county
 15 tax assessing office.
 16 Q Do you keep a copy of the building permit
 17 yourself?
 18 A Of the application, yes.
 19 Q Of the application?
 20 A Yes, I keep that in a little black book.
 21 Q What is it, a --
 22 A It's a typical three --
 23 Q Three-ring binder?
 24 A Three-ring binder.
 25 Q In connection with this lawsuit, were you

24

1 Q Who asked you to give them to her?
 2 A Ann Wirth.
 3 Q When did she ask you to do that?
 4 A Last week.
 5 Q Were you asked to provide documents at any
 6 time prior to that?
 7 A No.
 8 Q Did you ever see a copy of a -- what we would
 9 call a document request? Did you ever see a copy of a
 10 document that listed different areas of documents that
 11 should be produced?
 12 A No.
 13 Q Did Ann just call you up and say give me all
 14 your documents?
 15 A Right.
 16 Q What did you give her?
 17 A I gave her -- she already had all the building
 18 permits from 19 -- let me see. Well, let's see, about --
 19 I'm trying to think when they start, but she had in her
 20 township files some of the early building permits. And then
 21 I usually kept in my file some of the newer ones so I could
 22 go back and look at them if I needed to. And so then I
 23 turned all those over to her also.
 24 Q So you had the newer building permits in your
 25 file?

23

1 asked for any documents, for any building permits or other
 2 documents related to township business?
 3 A Could you rephrase that.
 4 Q Okay. In connection with this lawsuit, did
 5 anybody ask you to provide documents like building permits
 6 or other township related documents?
 7 A I'm not quite sure what you're asking, but Mr.
 8 Corneal came to the house and asked for an application.
 9 Q That's a separate issue. What I'm really
 10 asking is after this lawsuit was filed did any of the other
 11 defendants or anybody else come to you and say search your
 12 records for building permits or other documents related to
 13 township business in connection with the lawsuit, we need to
 14 do this, something like that?
 15 A Well, they came and took all my building
 16 permits and all my files.
 17 Q Who is they?
 18 A Well, I was asked to give them to Ann Wirth.
 19 Q Did she come and pick them up?
 20 A I took them to her office.
 21 Q So when you say they came and took them, do
 22 you really mean you took them to her?
 23 A Yes, right.
 24 Q That's fine.
 25 A Yeah.

25

1 A Yes.
 2 Q Or actually the applications, correct?
 3 A Yes, uh-huh.
 4 Q And you turned them over to her?
 5 A Yes.
 6 Q Did you turn anything else over to her?
 7 A The whole -- well, that's the whole book,
 8 yeah. No, no, that would be the only thing.
 9 Q Did you have any notes or anything like that
 10 that you kept in connection with applications for building
 11 permits?
 12 A I have some letters which I didn't turn over,
 13 some letters where I had written someone to say you have not
 14 gotten a building permit for something and you need to do
 15 this because you're in violation of the township ordinances.
 16 Q You have some letters like that?
 17 A Yes, um-hum.
 18 Q But you did not turn them over to her?
 19 A No.
 20 Q Why not?
 21 A Nobody asked me for them.
 22 Q Did she just ask you for your building
 23 permits?
 24 A Right.
 25 Q That's all?

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1 A (Witness nods head affirmatively.)
2 Q How many letters are you talking about?
3 A Oh, I don't think more than four to 10.
4 Q Four to 10 letters saying you're not getting a
5 building application -- or a building permit, I'm sorry?
6 A Of someone who didn't get a permit and I had
7 to write to them and say you need to get a permit.
8 Q Oh, I see. Someone who was building without a
9 permit?
10 A Right, um-hum.
11 Q I see what you're saying. Any other notes or
12 letters of any sort that you keep in your own files?
13 A No, not that I can think of.
14 Q Do you ever take handwritten notes in
15 connection with a building application?
16 A I have -- well, most of the building
17 applications are filled out by hand.
18 Q Right.
19 A But then I take that information and type it
20 on the tax assessor's office form because I just think it
21 looks better, but the ones that they fill out are all by
22 hand.
23 Q What about the tax assessor's office forms, is
24 that a one-page form?
25 A Yes, um-hum.

28

1 more time just to make sure you understand it. Did you ever
2 keep any notes in connection with any building permit
3 application that came your way, any handwritten notes in
4 your own writing or in your wife's writing or typed up or
5 anything --
6 A Yes, I probably have some, um-hum.
7 Q You do. And is that in a separate --
8 A Maybe telephone numbers of someone and -- just
9 that I hand jotted.
10 Q Do you keep them in a separate file?
11 A Yes, usually.
12 Q Are they all together or do you keep them in a
13 file connected to a particular building application?
14 A Yeah, I usually will put them with the
15 building permit application.
16 Q So if you have a building permit application,
17 do you put for each person -- you said you have a book,
18 right?
19 A Yes.
20 Q Do you also keep it in a separate file, you
21 know, for each person labeled in some way or --
22 A No, just in the -- just in the three-ring
23 notebook.
24 Q So where do you keep the notes then?
25 A Well, if they're -- I keep them until I find

27

1 Q Do you keep copies of that?
2 A No.
3 Q You just send that directly to the tax
4 assessor's office?
5 A Right, um-hum.
6 Q Is that the county tax assessor?
7 A Yes.
8 Q So it's the Huntingdon County tax assessor?
9 A Pardon?
10 Q The Huntingdon County tax assessor?
11 A Yes.
12 Q So other than the letters that you sometimes
13 write to people about building permits, are you certain that
14 there are no other documents in your possession related to
15 building permits in Jackson Township or other township
16 business related to building --
17 A No. I've got a couple other files about
18 floodplain information and -- because that sometimes can be
19 an issue also, but otherwise there's no documents that are
20 of importance.
21 Q Well, I'm not asking you whether they're of
22 importance, I'm just asking you if they exist.
23 A Um-hum.
24 Q Did you keep any notes in connection with -- I
25 may have asked you this, but I'm going to ask it to you one

29

1 they're irrelevant and then I throw them out.
2 Q But where do you keep them?
3 A In a file. You know, in my file drawer.
4 Q Just in a manila envelope or something --
5 A Yeah, um-hum.
6 Q -- like that? You don't --
7 A Or attached to the building permit
8 application.
9 Q You just clip them to it or something?
10 A Um-hum.
11 Q Do you have anything like that in your
12 possession at home now, notes that you've kept in connection
13 with the building permit applications?
14 A I'm not sure.
15 Q You'd have to look?
16 A I'd have to look.
17 Q Do you recall whether you kept any notes in
18 connection with David Corneal?
19 A Yes.
20 Q You did?
21 A Um-hum.
22 Q Is the answer yes you recall or yes you did?
23 A Pardon?
24 Q Is the answer yes you did keep notes?
25 A Yes.

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1 Q And do you have those notes at your house?
2 A No.
3 Q What did you do with them?
4 A **I have them in a case right here.**
5 Q Oh, you do, okay.
6 MS. MONTGOMERY: Well, Tony, I think I'm
7 entitled to have them from him. He brought them and they
8 are certainly relevant to this lawsuit.
9 MR. SHERR: Are you contending these were
10 requested in the request for production?
11 MS. MONTGOMERY: I certainly am. He's got
12 notes related to Mr. Corneal's building permit application
13 with him he said and I'd like to see them.
14 MR. SHERR: Do you want to let me see these
15 documents, please.
16 BY MS. MONTGOMERY:
17 Q Do you have other documents with you?
18 A **Yeah, um-hum. I brought all my stuff with**
19 **me. I didn't know what I would need.**
20 Q Okay. What other documents do you have with
21 you?
22 A **A couple letters and things like that.**
23 **(Handing.)**
24 MR. SHERR: Thank you.
25 BY MS. MONTGOMERY:

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1 Q Do you have a -- among those documents, Mr.
2 Van Dommelen, do you have notes related to other people's
3 building permit applications or just Mr. Corneal's?
4 A **I think just Mr. Corneal's.**
5 Q Are all of the documents that you brought with
6 you in some way related to Mr. Corneal's Jackson Township --
7 A **I think -- not all of them, not all of them.**
8 **I think there's also -- the ordinance is in here, too.**
9 Q Anything else beside the ordinances?
10 A **I can't -- I can't remember. I just picked it**
11 **all up.**
12 Q Do you recall anything else, though, besides
13 the documents related to Mr. Corneal's --
14 A **Pardon?**
15 Q Do you recall anything else besides documents
16 related to Mr. Corneal's building efforts in Jackson
17 Township? Do you recall anything else being in that file
18 besides the ordinances and Mr. Corneal's building efforts in
19 Jackson Township?
20 A **I'm not understanding you.**
21 Q Let me ask you this: Did you put that file
22 together yourself?
23 A **Yes, I just put everything in one file and I**
24 **picked it all up so --**
25 Q Were those documents that you believed would

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1 be related in some way to the issues in this lawsuit?
2 A **Some of them might be.**
3 Q What about the others, why did you bring them
4 if they're not related to it?
5 A **I don't know why.**
6 MR. SHERR: Let me just state for the record
7 that a number of these documents relate to the lawsuit
8 themselves. They include the complaint and the exhibits to
9 the lawsuit, a copy of the deposition of Mr. Corneal,
10 correspondence from me, a picture of my business card, notes
11 from a meeting that I attended, what appears to be a copy of
12 the subdivision ordinance -- well, the other documents are
13 free to inspection. They appear to be a copy of the
14 subdivision ordinance --
15 THE WITNESS: Yes, the ordinance is here,
16 um-hum.
17 MR. SHERR: -- a copy of Mr. Van Dommelen's
18 2001 vita, a single page which appears to be from Act 537,
19 various correspondence to Mr. Van Dommelen, which is free to
20 inspect, and a copy of an article from a newspaper. It
21 looks like the Daily News --
22 THE WITNESS: Yeah, it's the Daily News in
23 Huntingdon.
24 MR. SHERR: -- concerning this lawsuit.
25 MS. MONTGOMERY: Okay, why are the other

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1 documents not inspectable by me right now?
2 MR. SHERR: Well, you're certainly free to
3 inspect Mr. Corneal's deposition, the complaint and the
4 exhibits to the complaint. Correspondence from me to Mr.
5 Van Dommelen --
6 MS. MONTGOMERY: You're saying is protected?
7 MR. SHERR: -- as well as notes from a meeting
8 by --
9 MS. MONTGOMERY: What's on the back? There's
10 handwritten --
11 MR. SHERR: That I attended. Other notes that
12 are -- well, you're certainly free to inspect this. This is
13 something with my phone number on it, something concerning
14 -- a couple things concerning receipts regarding these
15 depositions, I assume, and -- I'll ask, what appear to be
16 notes from a conversation that I had with Mr. Van Dommelen?
17 THE WITNESS: Um-hum.
18 MR. SHERR: Is that correct?
19 THE WITNESS: Yes, um-hum.
20 MS. MONTGOMERY: So you're saying that --
21 MR. SHERR: That would also be privileged.
22 MS. MONTGOMERY: What is that, three --
23 MR. SHERR: Two.
24 MS. MONTGOMERY: Two handwritten small
25 notes --

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1 MR. SHERR: Three-by-five notes.
2 THE WITNESS: Yes, this -- I don't know how
3 that got in there. This has nothing to do with anything.
4 MR. SHERR: Okay, she can inspect that as well
5 then.
6 MS. MONTGOMERY: So you have what, three other
7 documents in front of you?
8 MR. SHERR: I have -- well, you're certainly
9 free to inspect my business card.
10 MS. MONTGOMERY: Okay.
11 MR. SHERR: I have two documents -- well, I
12 have three counting the three-by-five note, correct.
13 MS. MONTGOMERY: So you have a three-by-five
14 note, you have a letter from you to Mr. Van Dommelen and
15 then you have what you're saying are notes of a meeting?
16 MR. SHERR: Handwritten notes of a meeting
17 that I attended with the defendants in this lawsuit when it
18 was filed.
19 MS. MONTGOMERY: What's on the back of it?
20 MR. SHERR: Part of the same notes.
21 MS. MONTGOMERY: Those are notes related to
22 the meeting?
23 MR. SHERR: Yes, absolutely.
24 MS. MONTGOMERY: Who was at that meeting?
25 I'll ask Mr. Van Dommelen.

36

1 Q But I'm going to need to use the originals to
2 ask you certain questions because -- for a variety of
3 reasons so -- but we'll bring your original file back in a
4 few moments.
5 A Um-hum.
6 Q Mr. Van Dommelen, a few moments ago you
7 testified that you had some handwritten notes about David
8 Corneal's building permit application with you.
9 A And I didn't see them in there. I don't -- I
10 don't know what happened to them. They mainly were
11 telephone numbers and -- and I didn't see them in there
12 either.
13 Q I want you to take for me a moment the
14 document that you have said is notes in connection with --
15 notes that -- of a meeting that Tony Sherr attended. I'm
16 not going to ask you anything about what they say, I'm just
17 going to ask you to look at it for me for a second and tell
18 me whether those notes were all taken on one day or whether
19 any part of those notes were taken at a different time.
20 A My feeling is that they were taken at
21 different times. The reason I say that is what's on this
22 side I think probably was written down versus the things on
23 this side.
24 Q Right, that's why I'm asking you about it.
25 Which side do you think was taken at the meeting with Tony

35

1 BY MS. MONTGOMERY:
2 Q Mr. Van Dommelen, who was at the meeting that
3 Mr. Sherr is referring to that he says he was present at and
4 those are notes made in connection with that meeting? Who
5 all was at that meeting?
6 A I'm assuming that all the supervisors were and
7 I'm assuming that Ann Wirth was and I'm assuming that Larry
8 Newton, the township lawyer was and myself.
9 Q Anybody else?
10 A I think that's it. That's seven people.
11 Q Nobody's spouse was there or anybody else?
12 A No.
13 Q We're going to take a break and look at the
14 documents that you have with you for a moment, okay?
15 A Um-hum.
16 Q Including your handwritten notes there.
17 (Break taken from 10:22 a.m. until 10:38 a.m.)
18 BY MS. MONTGOMERY:
19 Q Mr. Van Dommelen, I'm going to send Leslie to
20 have a copy of these made by our office service people so we
21 can use them in connection with your deposition.
22 A Okay.
23 Q And we'll continue with the deposition for now
24 and she'll bring you your original file back directly.
25 A Um-hum.

37

1 Sherr?
2 A I would assume it was this one here because I
3 believe that meeting was at four o'clock.
4 Q On what day?
5 A On Thursday, the 13th.
6 Q Of?
7 A Of July.
8 Q Of July 2000?
9 A Um-hum. So that's why I'm assuming that this
10 was all --
11 Q Now, the other side, what do you think that
12 is?
13 A They were just some of my personal, you
14 know --
15 Q Thoughts about the lawsuit?
16 A Yeah, um-hum.
17 MS. MONTGOMERY: I'm going to represent that
18 I'm not going to turn this document over, but I want to
19 review the document that he says are his personal thoughts
20 about the lawsuit.
21 MR. SHERR: And I believe that this is
22 privileged because -- I believe it's privileged because I
23 believe it states things that were stated at the meeting so
24 you're more than happy to have the court inspect it and --
25 MS. MONTGOMERY: Take the document back from

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1 Mr. Van Dommelen.
 2 BY MS. MONTGOMERY:
 3 Q Mr. Van Dommelen, is it your position that
 4 those are things stated about the meeting?
 5 A **That what?**
 6 MS. MONTGOMERY: I'm going to ask him some
 7 more questions about that.
 8 BY MS. MONTGOMERY:
 9 Q When did you make those notes?
 10 A **I do not know.**
 11 Q Before or after the meeting?
 12 A **These after the meeting, I'm positive.**
 13 Q Was anybody else present when you made those
 14 notes?
 15 A **No.**
 16 Q I'm going to give you a sticky and ask you to
 17 mark on one side --
 18 MR. SHERR: Well, let the record reflect that
 19 I believe this to be a privileged document so we're not
 20 going to turn it over. You know, you can take the next step
 21 if you'd like at that point, but I believe this to be a
 22 privileged document.
 23 MS. MONTGOMERY: I'm going to take the next
 24 step. I'm absolutely going to take the next step.
 25 MR. SHERR: That's fine.

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1 MS. MONTGOMERY: I mean, I don't know that his
 2 thoughts about a meeting with you are privileged. I don't
 3 know under what theory of law his thoughts about a meeting
 4 with you are privileged. He told me they were thoughts --
 5 he didn't say they were thoughts about a meeting, he said
 6 that they were thoughts about the lawsuit. That's not
 7 privileged. And you've taken it from him and said no, I
 8 think there's something in here -- thoughts about that
 9 meeting and so you can't see it.
 10 MR. SHERR: I know this to be things that I
 11 stated to him in notes about the meeting and it's
 12 privileged.
 13 MS. MONTGOMERY: Well, we'll ask the court to
 14 review it.
 15 MR. SHERR: That's fine. I have no problem
 16 with that.
 17 BY MS. MONTGOMERY:
 18 Q But for now I'm just going to ask you to mark
 19 the side of it that you think is the meeting that you --
 20 notes of the meeting that you took while you were with Mr.
 21 Sherr.
 22 A **It would be this one. What do you want me to**
 23 **write?**
 24 Q Just, you know, meeting with Mr. Sherr or
 25 something like that so that we know which side you took in

40

1 Mr. Sherr's presence.
 2 A **(Witness so complied.)**
 3 Q Do you know somebody named Vita?
 4 A **Vita?**
 5 Q Yes.
 6 A **No.**
 7 Q Does the word vita mean anything to you,
 8 v-i-t-a?
 9 A **No.**
 10 MR. SHERR: Curriculum vita?
 11 THE WITNESS: Huh?
 12 MR. SHERR: Curriculum vita.
 13 THE WITNESS: Oh, vita, I see.
 14 BY MS. MONTGOMERY:
 15 Q V-i-t-a.
 16 A **I thought you were saying a name of a person,**
 17 **Vita.**
 18 Q I was just asking.
 19 A **Okay, vita, curriculum vita.**
 20 Q Okay.
 21 A **Mine is in here, in this pile someplace.**
 22 Q Right, the documents that I just took and had
 23 copied.
 24 A **Um-hum.**
 25 Q Do you have any other documents with you today

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1 besides the ones that you just took out of your bag and
 2 handed to Mr. Sherr first?
 3 A **No.**
 4 Q To your knowledge do you have any other
 5 documents anywhere else that in any way relate to this
 6 lawsuit?
 7 A **No.**
 8 Q That in any way relate to Mr. Corneal?
 9 A **No.**
 10 Q Did you have any documents at any other time
 11 that relate to this lawsuit or to Mr. Corneal?
 12 A **No.**
 13 Q Do you work on computer?
 14 A **Yes.**
 15 Q Would you have notes on computer by any
 16 chance?
 17 A **No.**
 18 Q Do you do any of your township business on
 19 computer?
 20 A **Sometimes. Sometimes I might write a letter**
 21 **on the computer.**
 22 Q Did you look in your computer to see whether
 23 there were any documents related to Mr. Corneal or this
 24 lawsuit?
 25 A **No.**

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1 Q Do you know right now as you sit here whether
2 there are?
3 A **Pardon?**
4 Q Do you know right now as you sit here whether
5 there are any such documents?
6 A **There are none.**
7 Q What about on floppy disk? Do you download
8 onto floppy disk at all?
9 A **Yes.**
10 Q Do you have any documents related to this
11 lawsuit downloaded onto a floppy disc?
12 A **No. My computer is mainly used for my**
13 **manuscripts for my books.**
14 Q Now, you said from time to time in your work
15 as a building permit officer that you have gone and
16 inspected property?
17 A **Um-hum.**
18 Q What does such an inspection entail?
19 A **To drive by mainly, to see what's being done.**
20 Q And when you say drive by, do you mean you
21 just drive by, you don't get out of the car?
22 A **No.**
23 Q Is that no, you don't get out of the car?
24 A **Yeah. No, I don't get out of the car.**
25 Q You just take a slow drive by the property?

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1 A **Correct.**
2 Q And what would you be looking for when you
3 drive by?
4 A **To see if someone has gotten a building**
5 **permit, to see if they're complying with our regulations.**
6 Q Well, now, in saying that, am I understanding
7 you to say that for someone who hasn't applied for a
8 building permit you've done drive-bys like that?
9 A **Yes.**
10 Q So is that because you hear from somebody that
11 somebody is building?
12 A **Yes.**
13 Q What about in connection with someone who has
14 applied for a building permit, have you done drive-bys --
15 A **Sometimes.**
16 Q How often?
17 A **Oh, I really can't say. I think I said a**
18 **little earlier about 25 times.**
19 Q I was just trying to make sure that you
20 weren't talking about any drive-by that you do those 25
21 times.
22 A **No.**
23 Q So you're saying that for purposes of people
24 who have applied for the permit you think you've driven by
25 to see what is going on about 25 times?

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1 A **Right.**
2 Q About how many building permit applications do
3 you process a year?
4 A **About -- between 35 and 40 a year.**
5 Q Is that pretty steady from --
6 A **That's pretty steady.**
7 Q Of those building permit applications, how
8 many have you denied in the 11 years that you've been the
9 building permit officer?
10 A **I'm not sure that I can answer that honestly.**
11 Q And why is that?
12 A **Because I think there are times I've said you**
13 **have to add more information and then they come back and**
14 **then I don't deny it.**
15 Q Okay. So have you ever outright denied a
16 building permit application by sending a letter and saying
17 your building permit application is denied?
18 A **Just once.**
19 Q And when was that?
20 A **To Corneal.**
21 Q So it was in connection with Mr. Corneal?
22 A **Right.**
23 Q You have no other -- you've never written a
24 letter to anybody else and denied their building permit
25 application?

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1 A **Not that I recall.**
2 Q So when you say you might ask them to go and
3 get additional information, what kind of additional
4 information?
5 A **Well, I might have discovered they haven't**
6 **gotten the proper sewage number from our sewer -- from the**
7 **septic officer and so I need to have that number before I**
8 **can -- before I can issue a permit. That might be one**
9 **reason.**
10 Q So they have to go back and get you a number
11 and come back?
12 A **And I might also say you need to get a better**
13 **assessment, a cost of the structure that you're building.**
14 Q Okay. Anything else?
15 A **Not that I can think of.**
16 Q So typically do they go get you the
17 information the same day and get it back to you?
18 A **They can very often, yes.**
19 Q How many times would you say you've sent
20 people back for additional information?
21 A **Oh, probably 10 times.**
22 Q Ten times in say 11 years?
23 A **Yes.**
24 Q During the year 2000 how many building permit
25 applications did you review?

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1 A Probably in the area of 36 or 37.
2 Q Was Mr. Corneal -- and I take it from your
3 past answer that Mr. Corneal's was the only building permit
4 application that you denied in the year 2000?
5 A Right.
6 Q How did Mr. Corneal come to fill out a
7 building application, a building permit application?
8 A How?
9 Q Yes. Well, let me ask that question -- strike
10 that. What's the first contact that you had with Mr.
11 Corneal in connection with his request for a building
12 permit?
13 A When he showed up at my house.
14 Q Did he call you first?
15 A I don't believe so, but I -- he might have.
16 Sometimes people do, sometimes they don't and I just do not
17 recall if he did or not.
18 Q So he showed up at your house?
19 A Right.
20 Q In the daytime?
21 A Yes.
22 Q Do you know when that was?
23 A No, I can't remember. It was probably in
24 April of 2000.
25 Q And what did he say when he got there?

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1 A He said he wanted a building permit and I said
2 what are you building and he said a garage and a house. And
3 then he said his name and I said I cannot give you a
4 building permit.
5 Q And why?
6 A Because the supervisors had instructed me not
7 to give a building permit.
8 Q When did the supervisors instruct you not to
9 give him a building permit?
10 A Well, probably a couple of weeks before that.
11 And then while he was there, I called up Tom Wilson and Tom
12 -- and I said Mr. Corneal is here and what am I to do and
13 he said don't give him a permit.
14 Q Did you ask him why shouldn't I give him a
15 permit?
16 A Yes, because he was -- hadn't subdivided
17 properly and he hadn't got the correct septic tank approval.
18 Q That's what Mr. Wilson told you?
19 A Yes.
20 Q Did you have any independent knowledge of
21 that?
22 A Well, I'd heard. Yes, I'd heard that that was
23 true.
24 Q Where did you hear that from?
25 A Oh, from different discussions of supervisors.

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1 Q Just with the supervisors?
2 A Yes.
3 Q You said that before Mr. Corneal showed up
4 that you had been instructed by the supervisors not to give
5 him a building permit.
6 A Right.
7 Q Now, in what -- you know, where were you when
8 you were instructed not to give him a building permit?
9 A I can't tell you. I can't remember.
10 Q Did they tell you that in person or over the
11 telephone?
12 A Over the telephone.
13 Q They called you at your house?
14 A Yeah, we talk on the phone, um-hum.
15 Q So in the course of a telephone conversation
16 prior to --
17 A Yes.
18 Q -- Mr. Corneal's visit you're saying?
19 A Right.
20 Q So who exactly were you speaking to?
21 A Pardon?
22 Q Who exactly were you speaking to?
23 A I know I talked to Ann Wirth about it.
24 Q Did Miss Wirth tell you not to give him a
25 building permit?

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1 A She said the supervisors were not interested
2 in letting him have one at that time.
3 Q And did she tell you why?
4 A Yes, the same reason, that he was talking
5 about subdividing but he hadn't done the proper steps for
6 subdividing and he also hadn't gotten the correct permission
7 for septic systems.
8 Q Well, let me ask you this: If he's asking to
9 build one structure on one piece of property, does he have
10 to do some kind of subdivision thing? I mean, what does he
11 have to do in connection with subdividing?
12 A Well, he has to go through the planning
13 commission to subdivide and go through the supervisors.
14 Q What if he doesn't want to subdivide, he just
15 wants to build?
16 A Well, he couldn't on that property because
17 there was already a house on it and that would mean that he
18 would then be subdividing that property.
19 Q Is that what Miss Wirth told you?
20 A Yes, that's common practice, common knowledge.
21 Q So you recall a phone call from Ann Wirth?
22 A Yeah, I assume that -- a phone call. I don't
23 know who called so I'll just say I talked to her on the
24 phone and I talked to Tom Wilson on the phone.
25 Q Was that around the same time frame?

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1 A Yes.
 2 Q Did either one of them express to you any
 3 dislike of Mr. Corneal?
 4 A No.
 5 Q Did they express to you any conflict that they
 6 were having with Mr. Corneal in any way?
 7 A Yes.
 8 Q And what did they express to you? Who
 9 expressed it to you and what did he or she express?
 10 A Well, he was very vituperative in two of the
 11 township meetings. Neither of those -- I wasn't present at
 12 either of those for some reason and so they reported his
 13 behavior at those and --
 14 Q What did they say about his behavior?
 15 A That it was irresponsible. And I'm not sure
 16 if that word was used, but it was very childlike and he did
 17 this in front of all the -- the whole business meeting.
 18 Q What exactly did he do, did they tell you?
 19 A Well, he screamed and yelled and ...
 20 Q Did they tell you anything else about it?
 21 A What?
 22 Q Did they tell you anything else about it?
 23 A Not really.
 24 Q Who told you this, Miss Wirth or Mr. Wilson?
 25 A I think both of them.

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1 Q So did they tell you that because he behaved
 2 in what they considered to be a childlike fashion that they
 3 didn't want him to build or something?
 4 A No, that had nothing to do with it.
 5 Q What else did they tell you then?
 6 A That's essentially it.
 7 Q At the time that Miss Wirth and Mr. Wilson
 8 told you that Mr. Corneal wouldn't be allowed to build
 9 because he didn't have proper subdivision, was there a
 10 subdivision ordinance in place in the township?
 11 A No, we had a moratorium on subdivision.
 12 Q Did you have an ordinance?
 13 A A subdivision ordinance?
 14 Q Yes.
 15 A We were working on that.
 16 Q So you just had a moratorium in place?
 17 A Right, um-hum.
 18 Q Were you involved in the discussions about
 19 placing a moratorium in place in Jackson Township?
 20 A No, no.
 21 Q How did you come to find out about the
 22 moratorium?
 23 A Well, it was just mentioned at township
 24 meetings.
 25 Q Do you know how long it was under discussion?

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1 A No, I'm not sure.
 2 Q Had you ever heard about it prior to the time
 3 that it was actually put in place by the township
 4 supervisors?
 5 A Yes, um-hum.
 6 Q How long before that had you heard about it?
 7 A I can't remember.
 8 Q Were you present at the meeting when the
 9 moratorium was put in place by the supervisors?
 10 A No.
 11 Q But you were aware of it?
 12 A Yes.
 13 Q Were you involved in any discussions or
 14 conferences or anything like that concerning the moratorium
 15 with the supervisors?
 16 A No.
 17 Q With anybody else?
 18 A I don't know.
 19 Q Well, do you recall who told you about the
 20 moratorium?
 21 A Well, the supervisors, I assume.
 22 Q They mentioned to you that they were putting
 23 it in place?
 24 A Yeah.
 25 Q That they intended to put it in place?

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1 A Yeah, and it was discussed at some of the
 2 meetings.
 3 Q Did they tell you what their concerns were and
 4 why they wanted to put a moratorium in place?
 5 A Well, they wanted to make sure that they had a
 6 better understanding of the whole subdivision process.
 7 Q So they put a moratorium in place so they
 8 could get a better understanding?
 9 A Yes, and they were trying to rewrite the whole
 10 question of subdividing.
 11 Q Did they tell you why they needed to
 12 understand it better? Did they tell you what their concerns
 13 were?
 14 A Well, I don't know that they said exactly, but
 15 I'm assuming that they wanted to make sure that we had
 16 better planning in the township and it wasn't
 17 helter-skelter.
 18 Q So you're assuming that, but did they actually
 19 tell you that?
 20 A No.
 21 Q Do you recall whether there was any public
 22 expression of concern about subdivisions in the township
 23 prior to the moratorium being placed --
 24 A Yes --
 25 Q Put in place?

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1 A -- there had been.
 2 Q By whom?
 3 A The supervisors and planners.
 4 Q What planners?
 5 A There were several architects and people in
 6 the township that had a concern about subdivision and the
 7 direction in which the township was or wasn't going.
 8 Q And who were those architects and planners?
 9 A Well, one was the name of Denson Groenendaal.
 10 Q Denson Groenendaal?
 11 A Yeah, um-hum.
 12 Q Is he a township resident?
 13 A Yes.
 14 Q Who else?
 15 A I can't think of any right now.
 16 Q You can't think of any others?
 17 A I know he was a major person.
 18 Q How do you know he was a major person?
 19 A Because he used to come to some of our
 20 meetings and express that concern.
 21 Q To the supervisors?
 22 A Um-hum.
 23 Q Anybody else?
 24 A No.
 25 Q Let's go back for a second to Mr. Corneal's

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1 Q And what did he say?
 2 A Well, he finally left.
 3 Q Did he ask you for an application?
 4 A Yes.
 5 Q Did you give him an application?
 6 A No.
 7 Q Why not?
 8 A Because I didn't know what he was going to do
 9 with it.
 10 Q What did you think he was going to do with an
 11 application?
 12 A Well, fill it out and pretend that he had an
 13 application.
 14 Q Well, you mean pretend that he had a permit,
 15 but he can't -- how could he pretend he has a permit?
 16 A Well, I don't know.
 17 Q So you didn't want to give him the
 18 application?
 19 A Right.
 20 Q Why, because you just didn't want him to have
 21 one?
 22 A Yes.
 23 Q Have you ever denied anybody else a building
 24 permit application in the past?
 25 A No.

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1 visit to your home in an effort to get a building permit.
 2 A Um-hum.
 3 Q So you told him -- as I understand your
 4 testimony, you told him he couldn't have one, correct?
 5 A Yes, um-hum.
 6 Q And you made a phone call to Mr. Wilson?
 7 A Um-hum.
 8 Q And he confirmed that you should not give
 9 him --
 10 A Right.
 11 Q -- a permit? Did Mr. Corneal then ask you any
 12 questions about why he couldn't have a permit?
 13 A Yes, and I said because you don't have the
 14 proper documentation to receive one.
 15 Q For a subdivision?
 16 A For a subdivision or for septic.
 17 Q What did he say?
 18 A He started ranting and raving.
 19 Q What's your definition of ranting and raving?
 20 A Screaming and yelling at me.
 21 Q He screamed at you?
 22 A Yes. And I began to be concerned about my
 23 welfare and unfortunately my wife wasn't there. She was not
 24 in the house. So I told him that either he leave or I'm
 25 going to call authorities to take him out of my house.

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1 Q What did Mr. Corneal do when you wouldn't give
 2 him the application?
 3 A He made a scene.
 4 Q Is that when he started screaming and
 5 yelling --
 6 A Right.
 7 Q -- when you said no, I'm not going to give you
 8 an application?
 9 A Right.
 10 Q Now, I heard you say a moment ago that you
 11 attend township meetings. Is that typically or just
 12 sometimes or regularly or what?
 13 A Fairly typically.
 14 Q Do you know, for example, in 2000 how many
 15 meetings you -- monthly meetings you attended?
 16 A Probably nine or 10.
 17 Q But you were not at the January meeting when
 18 the moratorium --
 19 A No.
 20 Q -- was put in place? Why not?
 21 A I cannot remember.
 22 Q What about the February 2000 meeting, do you
 23 know if you were at that one?
 24 A I was not at that one either.
 25 Q What about the March 2000 meeting?

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| | |
|--|--|
| <p style="text-align: right;">58</p> <p>1 A I can't recall.</p> <p>2 Q What about the April 2000 meeting?</p> <p>3 A I probably was at it, but I would have to look</p> <p>4 at my calendar.</p> <p>5 Q Are you aware of the existence of pre-meetings</p> <p>6 that --</p> <p>7 A Of what?</p> <p>8 Q I guess we would call them pre-meetings that</p> <p>9 were held -- that are held by the supervisors prior to</p> <p>10 township meetings?</p> <p>11 A Yes.</p> <p>12 Q Have you attended those meetings?</p> <p>13 A I've never attended one of them.</p> <p>14 Q Why is that?</p> <p>15 A Because I just didn't want to.</p> <p>16 Q Are you permitted to attend if you want?</p> <p>17 A Yes, I believe so.</p> <p>18 Q Are these meetings open to the public?</p> <p>19 A Yes.</p> <p>20 Q The pre-meetings are open to the public?</p> <p>21 A Yes, I believe so.</p> <p>22 Q Do you know where they're held?</p> <p>23 A In the secretary's -- the township secretary's</p> <p>24 office.</p> <p>25 Q The meetings -- the public meetings themselves</p> | <p style="text-align: right;">60</p> <p>1 A Yes.</p> <p>2 Q Is that building open to the public, like can</p> <p>3 anybody go in and walk in anytime they want?</p> <p>4 A I assume. She has office hours.</p> <p>5 Q She does?</p> <p>6 A Yes.</p> <p>7 Q Have you ever tried to go up there just to go</p> <p>8 into the township secretary's office?</p> <p>9 A Oh, yeah.</p> <p>10 Q Is it unlocked?</p> <p>11 A I don't know because if she's not there, she</p> <p>12 has a sign out that she'll be back at a certain time. I've</p> <p>13 never tried the door.</p> <p>14 Q As far as the pre-meetings are concerned that</p> <p>15 you think might be open to the public, are they actually</p> <p>16 advertised in the newspaper or anything like that, there</p> <p>17 will be a pre-meeting at Ann Wirth's office prior to the</p> <p>18 public supervisor's meeting?</p> <p>19 A That I'm not sure of. I don't get the Daily</p> <p>20 News. I don't get -- receive that paper.</p> <p>21 Q To your knowledge, though, are they</p> <p>22 advertised?</p> <p>23 A I think so, but I would not place my life on</p> <p>24 it.</p> <p>25 Q What makes you think so?</p> |
| <p style="text-align: right;">59</p> <p>1 are held at the fire hall?</p> <p>2 A Right.</p> <p>3 Q What makes you say that the pre-meetings are</p> <p>4 open to the public?</p> <p>5 A I think the Sunshine Laws of the state.</p> <p>6 Q Do people know that there are pre-meetings at</p> <p>7 Ann Wirth's property?</p> <p>8 A Oh, I'm sure they do.</p> <p>9 Q And what makes you say you're sure that they</p> <p>10 do?</p> <p>11 A Because they've talked about them at the</p> <p>12 public meetings.</p> <p>13 Q Where is the fire hall in relation to Miss</p> <p>14 Wirth's house?</p> <p>15 A About four miles away and the fire hall is</p> <p>16 right in center city McAlevys Fort.</p> <p>17 Q Is there any kind of a sign at Miss Wirth's</p> <p>18 that says, you know, township office --</p> <p>19 A Yes.</p> <p>20 Q -- pre-meetings held here, something like</p> <p>21 that?</p> <p>22 A No, no, there is no sign that says meetings</p> <p>23 held, but it does -- there is a sign that says township</p> <p>24 supervisors -- or township secretary has an office there.</p> <p>25 Q So it's the township secretary's office?</p> | <p style="text-align: right;">61</p> <p>1 A Because I know occasionally that they have</p> <p>2 said something is in the paper.</p> <p>3 Q You mean occasionally the supervisors say</p> <p>4 we're putting something in the paper?</p> <p>5 A And whenever the supervisors have a change of</p> <p>6 the supervisor's meetings it's always in the paper.</p> <p>7 Q The regular monthly meetings?</p> <p>8 A Yes, uh-huh, and those are open and attended</p> <p>9 by townspeople.</p> <p>10 Q Right. Do you know what actions or what</p> <p>11 activities take place at these pre-meetings?</p> <p>12 MR. SHERR: I'm going to object to the form of</p> <p>13 the question. I believe it's calling for hearsay now since</p> <p>14 he already stated he did not go to any of those meetings.</p> <p>15 MS. MONTGOMERY: Well, hearsay is perfectly</p> <p>16 permissible in a deposition, perfectly permissible.</p> <p>17 MR. SHERR: I'm not telling him not to answer.</p> <p>18 I'm objecting to the form of the question because you're</p> <p>19 asking for hearsay.</p> <p>20 MS. MONTGOMERY: Okay.</p> <p>21 BY MS. MONTGOMERY:</p> <p>22 Q Do you know what activities take place at the</p> <p>23 pre-meetings?</p> <p>24 A Well, I know they sign checks.</p> <p>25 Q The supervisors sign checks?</p> |

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1 A Yes, uh-huh, because I get my check from them
 2 once a month.
 3 Q What else?
 4 A I have no idea.
 5 Q Do you know of any member of the public who
 6 has ever attended a pre-meeting?
 7 A No, I don't.
 8 Q When Mr. Corneal visited your house and asked
 9 you for a building permit application, do you recall whether
 10 -- do you recall telling him that there was going to be a
 11 meeting on his situation the next day?
 12 A Yes, I do recall a comment like that.
 13 Q That you made to him?
 14 A Yes, um-hum.
 15 Q How did you know there was going to be a
 16 meeting on his situation?
 17 A Well, there was some talk about it, but it
 18 apparently never took place.
 19 Q That wasn't a public meeting, correct?
 20 A No, I don't believe so.
 21 Q Was that going to be a meeting of the
 22 supervisors and Ann Wirth?
 23 A Yes.
 24 Q Were you supposed to be there?
 25 A No.

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1 Q Why don't you think it ever took place?
 2 A Pardon?
 3 Q Why don't you think it ever took place?
 4 A Because I never got any response about that I
 5 should change the stance on the building permit for Mr.
 6 Corneal.
 7 Q So you don't really know whether or not the
 8 meeting ever took place --
 9 A No.
 10 Q -- correct? You said there had been some talk
 11 of holding a meeting. Some talk among who?
 12 A The supervisors to try and figure out what had
 13 to be done.
 14 Q About Mr. Corneal?
 15 A Yes.
 16 Q So this was going to be a non-regular -- it
 17 wasn't a monthly meeting or anything like that --
 18 A Not that I know of.
 19 Q -- or even a pre-meeting?
 20 A Yes.
 21 Q Was anybody else present at your house the day
 22 that Mr. Corneal came?
 23 A No.
 24 Q Did you have occasion then after that visit to
 25 meet with Mr. Corneal in person?

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1 A No.
 2 Q You never talked to him in person again --
 3 A No.
 4 Q -- about his building permit application?
 5 A No.
 6 Q What did you then do next about his building
 7 permit?
 8 A I waited to hear from the supervisors.
 9 Q What did you hear next from the supervisors?
 10 A Well, that until he agreed to take care of the
 11 concerns that they weren't going to allow him to have a
 12 permit.
 13 Q Who agreed?
 14 A The supervisors.
 15 Q They agreed -- I'm sorry, I don't understand
 16 what you said.
 17 A You asked me the next step and what I'm saying
 18 is that they told him, apparently, and this is -- that until
 19 he solved the problems that they wouldn't have me issue a
 20 building permit.
 21 Q How do you know they told him that?
 22 A I don't know. I'm assuming that they did.
 23 Q Okay. Assuming based on what?
 24 A Well, based on the fact that they were trying
 25 to get different things solved.

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1 Q Have you ever been present at a township
 2 meeting that Mr. Corneal was present at?
 3 A No.
 4 Q Did you ever have the opportunity to talk to
 5 Mr. Corneal again on the telephone about his building permit
 6 application?
 7 A No.
 8 Q Did he ever call -- try to call you again?
 9 A No.
 10 Q Did he ever write to you?
 11 A Yes.
 12 Q What was the occasion of his writing to you?
 13 A Somewhere there's a letter in there.
 14 Q Do you recall a time when Mr. Corneal decided
 15 that he just wanted to build a studio rather than a house?
 16 A Yes.
 17 Q What do you know about that?
 18 A He came and presented plans to me,
 19 architectural plans, of a four garage -- four-stall garage
 20 with an upstairs studio in it.
 21 Q Okay, he presented them to you. I thought you
 22 said you hadn't an occasion to meet with him again?
 23 A That was when he came that first time.
 24 Q Oh, okay. So he was at that time asking you
 25 for a garage and a house, is that what you're saying -- a

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1 studio and a house?
2 A Well, yes, he was going to do a house and a
3 garage and then he changed his mind and decided to have a
4 studio separate from the garage.
5 Q So is it your testimony that the time that he
6 came to your house he was asking you for a building permit
7 both for the house and for the studio, correct?
8 A I'm not sure about that. I can't -- the only
9 drawings he had with him were a four-stall garage and with a
10 second story for a studio.
11 Q So he didn't need any septic for that studio,
12 right?
13 A I would say so.
14 Q Why is that?
15 A Because as an artist he's got to use water and
16 that means that you've got to have, you know, a system to
17 get rid of the water and -- through a septic system.
18 Q Do you have septic in your studio?
19 A No, I don't.
20 Q So you don't really know anything about why
21 Mr. -- or you don't really know anything that would
22 demonstrate that Mr. Corneal needs septic in his studio, do
23 you?
24 A No, I'm assuming that he would need to have a
25 septic system because of the type of artwork that he's --

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1 Q But you denied him the application even for
2 that studio, correct?
3 A Yes.
4 Q Did you do so based on what the township
5 supervisors told you to do?
6 A Right.
7 Q So they told you don't give him a building
8 permit for anything, right?
9 A Exactly.
10 Q Mr. Van Dommelen, I'm just going to take a
11 second and show you a document -- while I find this
12 document, I'm going to ask you questions so we don't waste
13 time. Have you had occasion to discuss with any of the
14 township supervisors their depositions?
15 A No.
16 Q Have you had occasion to discuss with anybody
17 the depositions of the township supervisors?
18 A I have not heard of anything that they've --
19 no, I haven't.
20 Q Have you talked to the township supervisors
21 about their depositions or about this lawsuit since their
22 depositions were taken?
23 A No.
24 Q What about Miss Wirth, have you had occasion
25 to talk to Miss Wirth about her deposition?

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1 Q How do you get water to your studio?
2 A I go to the stream and get water.
3 Q So assuming he doesn't want septic in his art
4 studio --
5 A Pardon?
6 Q Assuming he doesn't want water in his studio
7 like you don't need water in your studio, does he need a
8 septic system?
9 A Well, I suppose not.
10 Q Did Mr. Corneal ever tell you that he was
11 looking to put water in his studio?
12 A I don't recall.
13 Q Did you at the time that he asked you for the
14 building permit make any distinction between the art studio
15 and the house?
16 A I knew he was going to build a house.
17 Q But he was asking to build a house and an art
18 studio, right?
19 A I don't recall if he was asking for both of
20 them at that time or not.
21 Q But you did testify that he brought to you
22 some plans and the only plans that he showed you were for an
23 art studio -- or a four-bay garage with a studio above it,
24 correct?
25 A Yes.

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1 A No.
2 Q Have you talked to her since her deposition
3 was taken?
4 A Yes.
5 Q When was that?
6 A Well, I've talked to her several times about
7 different issues.
8 Q Did you talk to her about this lawsuit?
9 A No.
10 Q So has anybody -- no matter who they are,
11 anybody, told you anything about the testimony that was
12 given --
13 A No.
14 Q -- in the depositions of the township
15 supervisors --
16 A No.
17 Q -- or Ms. Wirth?
18 A Unh-unh. The only thing I know about is --
19 because I was here the day that Ann Wirth -- I know the
20 period of time it took for the deposition.
21 Q Now, when Mr. Corneal came to your house, did
22 you indicate to him that you would call him or get back in
23 touch with him in any way?
24 A No.
25 Q Do you recall getting a phone call from him

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| | |
|---|--|
| <p style="text-align: right;">70</p> <p>1 after that meeting --</p> <p>2 A No, I don't.</p> <p>3 Q -- at your house? I'm going to show you a</p> <p>4 document that we're going to -- it's already been marked as</p> <p>5 Wirth 15 so we don't need to mark it again and I'll ask you</p> <p>6 to take a look at it.</p> <p>7 A Um-hum.</p> <p>8 Q Do you recall receiving that letter from Mr.</p> <p>9 Corneal?</p> <p>10 A Yes, um-hum.</p> <p>11 Q What did you do with that letter once you</p> <p>12 received it?</p> <p>13 A I filed it.</p> <p>14 Q Filed it where?</p> <p>15 A In my file.</p> <p>16 Q Did you send it on to anybody else?</p> <p>17 A No.</p> <p>18 Q Why not?</p> <p>19 A I don't know who I would have sent it on to.</p> <p>20 Q You wouldn't have sent it on to the township</p> <p>21 supervisors?</p> <p>22 A No.</p> <p>23 Q Did you call him back about that letter?</p> <p>24 A No.</p> <p>25 Q Did you tell anybody about the letter?</p> | <p style="text-align: right;">72</p> <p>1 A Huh?</p> <p>2 Q I appreciate your honesty. Why did you call</p> <p>3 him a trouble-making yuppie from over the mountain?</p> <p>4 A Well, it was because I think it's a good</p> <p>5 demographic term that is used for people of his age and for</p> <p>6 people who always want to sue other people.</p> <p>7 Q Well, on May 5, 2000 he hadn't sued anybody,</p> <p>8 right?</p> <p>9 A What?</p> <p>10 Q On May 5, 2000 he hadn't sued anybody, right?</p> <p>11 A I still didn't hear you.</p> <p>12 Q On May 5, 2000 when he wrote this letter he</p> <p>13 hadn't sued anybody, right?</p> <p>14 A No, but I figured he would because he had</p> <p>15 threatened me that he was going to sue.</p> <p>16 Q Did he threaten you to sue after you wouldn't</p> <p>17 give him the application?</p> <p>18 A Yes.</p> <p>19 Q Did that term trouble-making yuppie from over</p> <p>20 the mountain come from somebody else or did you think that</p> <p>21 up yourself?</p> <p>22 A Oh, I just made it up myself -- or I didn't</p> <p>23 make up the term yuppie.</p> <p>24 Q Right, of course not. What about Mr. Corneal</p> <p>25 makes you say that he's a yuppie?</p> |
| <p style="text-align: right;">71</p> <p>1 A I think I probably told Ann Wirth that I'd</p> <p>2 received one.</p> <p>3 Q And what did you understand that letter to be</p> <p>4 asking you?</p> <p>5 A Pardon?</p> <p>6 Q What did you understand that letter to be</p> <p>7 asking you?</p> <p>8 A To call him back.</p> <p>9 Q Why didn't you call him back?</p> <p>10 A Because there's no -- nothing solved about the</p> <p>11 building permit.</p> <p>12 Q In his letter he tells you he just wants a</p> <p>13 building permit for his garage right now, correct?</p> <p>14 A Um-hum.</p> <p>15 Q Is there something that needed to be solved</p> <p>16 about his garage?</p> <p>17 A No.</p> <p>18 Q Can I see that again, please -- actually hold</p> <p>19 on to it, I'll get a copy, sorry. Mr. Corneal states in</p> <p>20 this letter that you called him a trouble-making yuppie from</p> <p>21 over the mountain. Is that true?</p> <p>22 A Yes.</p> <p>23 Q You did call him that?</p> <p>24 A Yeah.</p> <p>25 Q I appreciate your honesty.</p> | <p style="text-align: right;">73</p> <p>1 A I think he just behaves like someone who wants</p> <p>2 to get their own way and his age group.</p> <p>3 Q So when you called Mr. Wilson the day that Mr.</p> <p>4 Corneal was out at your house, you explained to him that Mr.</p> <p>5 Corneal was really just right now just asking for the permit</p> <p>6 for the garage, right?</p> <p>7 A Yes.</p> <p>8 Q And Mr. Wilson said what?</p> <p>9 A He said don't give him a permit.</p> <p>10 Q When you told -- you indicated earlier that</p> <p>11 you told him that they were going to meet -- the supervisors</p> <p>12 were going to meet the next day about Mr. Corneal's permit</p> <p>13 situation, right?</p> <p>14 A Yes.</p> <p>15 Q You testified to that. Did you tell Mr.</p> <p>16 Corneal you would call him and let him know?</p> <p>17 A I don't recall that I did.</p> <p>18 Q Do you recall him giving you his telephone</p> <p>19 number where you could reach him?</p> <p>20 A Yeah, I did have his telephone number. I</p> <p>21 thought it was here in all these papers but I can't seem to</p> <p>22 find it.</p> <p>23 Q But he gave it to you that day, right, so you</p> <p>24 could get a hold of him?</p> <p>25 A Well, I can't -- I can't remember if he gave</p> |

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1 that to me -- he must have given it to me that day.
2 Q Okay. So now after you received this letter,
3 you just filed it away and what did you do, just wait to
4 hear from the supervisors again?
5 A Yes.
6 Q Did you take any independent action in
7 connection with deciding whether or not he ought to have a
8 permit?
9 A I did one thing. I drove down into his
10 property to see what was happening and when I came back my
11 wife said don't ever do that again.
12 Q Why is that?
13 A Because she doesn't trust him.
14 Q She didn't want you to go near his property?
15 A Right, um-hum.
16 Q Why didn't your wife trust him?
17 A By his behavior.
18 Q But she wasn't there, right?
19 A No. Well, I told her.
20 Q You told her that he had screamed?
21 A I tell her everything.
22 Q You told her he screamed at you?
23 A Pardon?
24 Q You told her he screamed at you?
25 A Yes, um-hum.

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1 Q Were you at the township meeting when the
2 subdivision ordinance eventually was approved by the
3 supervisors?
4 A I can't remember. I have a -- I have a very
5 difficult time hearing in that hall and -- because it's all
6 metal and, you know, I just can't -- I can't hear unless I'm
7 right sitting as close as you are so I can almost read lips.
8 Q I understand.
9 A I miss about 75 percent of the discussion in
10 the township meetings.
11 Q I see. Between the time that the moratorium
12 was put in place and the subdivision ordinance was finally
13 approved --
14 A Yes.
15 Q -- did you issue any building permits?
16 A Did I what?
17 Q Issue any building permits.
18 A After that?
19 Q No, between the time the moratorium was put in
20 place and the time it was finally approved, did you issue
21 any building permits?
22 A Probably, for sheds and small structures.
23 Q So if Mr. Corneal didn't need a sewage permit,
24 right -- let me say this: If Mr. Corneal didn't need
25 septic, he wouldn't need a sewage permit, correct?

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1 A Not if it's just a garage.
2 Q Did there come a time then when you did
3 receive building permit applications from Mr. Corneal?
4 A No.
5 Q You never received a building permit
6 application from him?
7 A No.
8 Q I'm going to show you what's been marked
9 previously as Wirth Exhibit 13 and ask you to look at that,
10 please. Okay?
11 A Um-hum.
12 Q Did you write that letter?
13 A Did I write that?
14 Q Yes.
15 A I wrote part of it.
16 Q Which part of it did you write?
17 A Well, I wrote a general one and then Larry
18 Newton looked it over and made some slight changes.
19 Q So you sent that letter to Larry Newton after
20 you did an initial draft of it?
21 A Yes.
22 Q And he sent it back with some changes?
23 A Yes.
24 Q Did you do that on your computer, that letter?
25 A No, unh-unh.

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1 Q Well, let me ask you this: When you say you
2 wrote it, did you handwrite it initially and send it back to
3 -- send it to Larry?
4 A Well, I probably did -- the initial one I
5 probably did on the computer, but I -- I'm almost sure that
6 I didn't save it.
7 Q Okay. So you --
8 A So then I sent -- the reason I say this didn't
9 come off my computer is because it's not justified and I
10 always justify all my letters because I think it looks
11 better.
12 Q So do you think that came from Larry Newton's
13 computer?
14 A Yes.
15 Q In final form it came to you for your
16 signature?
17 A Pardon?
18 Q In final form it came to you for your
19 signature from Larry Newton?
20 A Yes, um-hum.
21 Q What does that letter do, purport to do?
22 A Well, it's telling him that he hasn't met with
23 the right qualifications to get a building permit in terms
24 of no subdivision, land ordinance, sewage modules.
25 Q Well, now, the first letter says please be

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1 advised that Jackson Township has referred to me for review
2 your applications for building permits, right?
3 **A Pardon?**
4 **Q** Please be advised that Jackson Township has
5 referred to me for review your applications for building
6 permits.
7 **A Um-hum.**
8 **Q** I thought you said that you hadn't -- you
9 never got an application for a building permit?
10 **A Well, I didn't.**
11 **Q** So you never actually reviewed the
12 applications; is that right?
13 **A No, we never -- it was never filled out.**
14 **Q** Did anybody ever send to you his -- any filled
15 out application?
16 **A No.**
17 **Q** Who told you it was never filled out, that no
18 application was ever filled out?
19 **A No what?**
20 **Q** Who told you that no application was ever
21 filled out?
22 **A Well, I never received one.**
23 **Q** I'm going to show you something. Actually
24 what I'm going to do here, just because I think -- I want to
25 keep this straight. The first letter that we looked at,

80

1 **Q** Have you ever seen this letter before?
2 **A No.**
3 **Q** Underneath it --
4 **A I do -- I do see this building permit here and**
5 **I understand now where that came from.**
6 **Q** You mean the building application?
7 **A Yes, uh-huh.**
8 **Q** Now, what do you understand about that?
9 **A That was sent to Larry Newton, a blank one,**
10 **and Larry Newton sent it to Corneal to fill out, but I've**
11 **never -- see, I don't have it in my files at all.**
12 **Q** And you never got a chance to actually review
13 it?
14 **A No.**
15 **Q** What about the other two applications that are
16 there?
17 **A No, I have not seen them before.**
18 **Q** You've never seen the other three either?
19 **A No.**
20 **Q** But when you wrote your letter to Mr. Corneal,
21 your October 10, 2000 letter, you made reference to
22 applications for building permits in the plural, correct?
23 **A Yes.**
24 **Q** Were those your words or was that something
25 that Larry Newton had put in?

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1 which was the May 5th, 2000 letter from David Corneal to
2 you --
3 **A Um-hum.**
4 **Q** -- and the second letter that we looked at,
5 the October 10, 2000 letter from Mr. Corneal -- to Mr.
6 Corneal from you, we're going to mark this again actually
7 for your deposition.
8 **MS. MONTGOMERY:** So we will do these Van
9 Dommelen Deposition Exhibits 1 and 2 respectfully. And you
10 can hold onto them because I'm going to ask you a few more
11 questions about them.
12 (Letter dated 5/5/00 produced and marked as
13 Van Dommelen Exhibit No. 1.)
14 (Letter dated 10/10/00 produced and marked as
15 Van Dommelen Exhibit No. 2.)
16 **BY MS. MONTGOMERY:**
17 **Q** Now, I'm going to show you a document that we
18 will mark as Van Dommelen Exhibit 3 at this time.
19 (Packet of documents produced and marked as
20 Van Dommelen Exhibit No. 3.)
21 **BY MS. MONTGOMERY:**
22 **Q** Mr. Van Dommelen, the first document on your
23 Exhibit 3 there is the August 31, 2000 letter from David
24 Corneal to Ann Wirth.
25 **A Right.**

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1 **A I think Larry Newton.**
2 **Q** Filled that in for you?
3 **A Um-hum, right.**
4 **Q** Did your first draft -- what did your first
5 draft say, do you recall?
6 **A No, I don't recall.**
7 **Q** Did somebody tell you what to say?
8 **A It wasn't as complicated as this, though.**
9 **Q** Did somebody tell you what to say?
10 **A Yeah, I think Larry Newton.**
11 **Q** Told you what to say. So how did you find out
12 about the applications for building permits if you never saw
13 them?
14 **A Well, I think I sent some to Larry Newton. He**
15 **asked for some.**
16 **Q** For some blanks?
17 **A Yes.**
18 **Q** But then the filled out ones --
19 **A I never saw the filled out ones.**
20 **Q** How did you find out that they had been filled
21 out?
22 **A I'm not sure that I knew.**
23 **Q** But you wrote a letter that says that you
24 reviewed the applications but you didn't really know that
25 they'd been filled out?

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1 A No, I can't answer that.
 2 Q Well, let me ask you this: I know that you --
 3 I believe that you've testified essentially that you just
 4 wrote a letter that somebody else had -- told you what to
 5 say in the letter, correct?
 6 A Well, to some extent, yes. I had, you know --
 7 I had written a draft and I'm assuming that it -- they
 8 didn't feel I was putting the proper punch in there.
 9 Q Did anybody else tell you what to say in the
 10 letter besides Mr. Newton?
 11 A No, unh-unh.
 12 Q Do you recall what language Mr. Newton wanted
 13 you to add to this letter?
 14 A I think a little more detail about the
 15 Department of Environmental Protection, areas like that.
 16 Q Did you ever indicate to Mr. Newton that you
 17 hadn't seen -- since you hadn't seen the permits --
 18 A No.
 19 Q -- it was difficult to --
 20 A No.
 21 Q -- write the letter?
 22 A No.
 23 Q Or I'm sorry, hadn't seen the applications.
 24 A No.
 25 Q You never told him that?

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1 A No, unh-unh.
 2 Q You just rely on him telling you what to say?
 3 A Well, I was relying on eventually that they
 4 would come back for my -- you know, for my files.
 5 Q Have you ever denied a building permit
 6 application without seeing it before?
 7 A No.
 8 Q Have you ever written any other letter like
 9 this, like what is -- we've marked as Van Dommelen Exhibit 2
 10 now --
 11 A No.
 12 Q -- the October 10 letter? You've never
 13 written any other letter like that?
 14 A I've written letters requesting someone to
 15 apply for a building permit.
 16 Q Understood. What were you thinking would come
 17 back for your files? You just said, you know, I assumed it
 18 would come back for my files.
 19 A Well, once it -- if it were going to be
 20 approved, then I would have to have it in my files to send
 21 to the tax assessment form.
 22 Q If the supervisors had said okay --
 23 A Right.
 24 Q -- now we're going to allow you to approve it?
 25 A Right.

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1 Q Then you'd get an application for your files?
 2 A Yes, um-hum.
 3 MS. MONTGOMERY: Hold on a second.
 4 (Pause.)
 5 BY MS. MONTGOMERY:
 6 Q Now, after this October 10, 2000 letter that
 7 you wrote denying these applications that you hadn't seen,
 8 did there come a time once again that you had anything to do
 9 with Mr. Corneal's request for a building application
 10 permit?
 11 A No.
 12 Q No?
 13 A No.
 14 Q You never had any other involvement whatsoever
 15 with his request for a permit?
 16 A No.
 17 Q Have you ever had any discussion with the
 18 supervisors about his request for a permit?
 19 A Yeah, I would say so, but I can't give you any
 20 detailed conversation.
 21 Q Have you ever attended any sort of special
 22 meeting or anything --
 23 A No.
 24 Q -- like that where Mr. Corneal's --
 25 A No.

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1 Q -- situation was --
 2 A No.
 3 Q -- discussed? You should let me finish my
 4 sentence.
 5 A I just seen him the one time.
 6 Q I'm really talking about any meetings with
 7 anybody else.
 8 A No.
 9 Q Now, do you know whether or not Mr. Corneal
 10 appealed the denial of his request for building permits?
 11 A No, I don't -- I don't recall.
 12 Q Have you ever -- well, let me ask it this way:
 13 I believe you testified that you never denied a building
 14 permit before Mr. Corneal's, correct?
 15 A Um-hum.
 16 Q So you wouldn't have had an opportunity to be
 17 involved in the appeal of a denial; is that correct?
 18 A No.
 19 Q Do you know what kind of procedures you would
 20 use if you had to -- if somebody did appeal?
 21 A No. No, the only appeals that I've dealt with
 22 is on an appeal to build a structure closer to the -- to a
 23 land -- a land border.
 24 Q A boundary line?
 25 A Yeah, a boundary line. We have a 15-foot

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1 **boundary line.**
 2 Q **Setback?**
 3 A **Yeah, setback and someone appealed to have the**
 4 **building set back.**
 5 Q **And how did you -- how was that appeal**
 6 **handled?**
 7 A **Well, they called me and I asked them if they**
 8 **wanted to have an appeal and then they would have to write a**
 9 **letter to the supervisors and they did that.**
 10 Q **And then what happened?**
 11 A **And then the supervisors approved the appeal.**
 12 Q **So you denied the request -- was it a request**
 13 **for a variance, is that what it was?**
 14 A **Pardon?**
 15 Q **Was it a request for a variance of the**
 16 **setback?**
 17 A **Yeah, something like a variance, um-hum.**
 18 Q **Did that go to the zoning officer, is that**
 19 **what they were appealing?**
 20 A **We don't have a zoning officer.**
 21 Q **I'm just a little bit confused because you'd**
 22 **indicated that you had -- was it a building permit that was**
 23 **being denied or what was it?**
 24 A **Well, it was a -- yeah, then it would be a**
 25 **building permit.**

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1 Q **But you had said that you never denied a**
 2 **building permit before.**
 3 A **Well, they were eventually given it.**
 4 Q **Oh, I see. Okay. So let me just get this**
 5 **straight. Somebody came and asked you if they could build a**
 6 **building at a particular site on their property?**
 7 A **Right.**
 8 Q **And you said you wouldn't be able to build it**
 9 **there, is that --**
 10 A **Yes, there was a question about that being**
 11 **placed too close to the boundary line and so then I**
 12 **suggested that they should appeal that to the board of**
 13 **supervisors.**
 14 Q **What did the board of supervisors do after it**
 15 **was appealed?**
 16 A **Well, they took a vote and approved it.**
 17 Q **Do you know when they took a vote?**
 18 A **At the -- at a supervisor's meeting.**
 19 Q **At a public meeting?**
 20 A **Public meeting.**
 21 Q **Were you there?**
 22 A **Yes.**
 23 Q **You were there. When was that?**
 24 A **I can't remember the date. I'd have to look**
 25 **in my book. About a year ago.**

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1 Q **So it was in the year 2000?**
 2 A **A year ago or two years ago.**
 3 Q **You think it was in the year 2000?**
 4 A **Pardon?**
 5 Q **You think it was in the year 2000?**
 6 A **It might have been.**
 7 Q **What was the name of the man who -- or woman**
 8 **who requested the building --**
 9 A **Stanborough.**
 10 Q **Stanborough?**
 11 A **Um-hum.**
 12 Q **Is that S-t-a-n-b-o-r-o-u-g-h?**
 13 A **Yes, um-hum.**
 14 Q **So they eventually got their building permit,**
 15 **right?**
 16 A **Um-hum.**
 17 Q **And they were allowed to build too close to**
 18 **the boundary line, right?**
 19 A **Yes.**
 20 Q **So you were at that meeting, correct?**
 21 A **Yes, I believe I was.**
 22 Q **Was there any discussion about --**
 23 A **Yeah, there was a slight discussion about it.**
 24 Q **Did you participate --**
 25 A **And the reason that they decided, they had one**

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1 **shed already close and they were going to tear that one down**
 2 **and put another one up.**
 3 Q **I see.**
 4 A **And so that's why it was approved because they**
 5 **had already had one that was close to the boundary line.**
 6 Q **So you didn't give them a formal denial, you**
 7 **just said I can't approve this, you need to go talk to**
 8 **them --**
 9 A **Right.**
 10 Q **-- is that right?**
 11 A **(Witness nods head affirmatively.)**
 12 Q **Did you give them anything in writing actually**
 13 **denying it?**
 14 A **No.**
 15 Q **Did they actually submit -- had they actually**
 16 **submitted an application to you or did they just come and**
 17 **talk to you about it informally?**
 18 A **It was sort of informal and then they**
 19 **appealed.**
 20 Q **So is it your understanding that if someone**
 21 **builds the denial -- I'm sorry, appeals the denial of a**
 22 **building permit then it would be -- the appeal would be held**
 23 **at a township supervisor's meeting?**
 24 A **Yes, um-hum.**
 25 Q **And they would rule on it there?**

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1 A Right.
 2 Q Can you recall any other appeal of a building
 3 permit situation?
 4 A Not offhand.
 5 Q What about applications for septic approval,
 6 septic system approval?
 7 A I have nothing to do with that. That all
 8 comes through the septic officer and --
 9 Q Barry Parks?
 10 A Yeah, Barry Parks. And he does all that work
 11 and finally submits to the owner of the land a septic
 12 approval.
 13 Q If he disapproves, though, have you ever been
 14 around or in -- present in any situation where there's been
 15 some discussion of the denial of septic approval?
 16 A No, unh-unh, because usually Barry Parks talks
 17 to the landowner and very often to Tom Wilson.
 18 Q About any problems he's concerned with?
 19 A Yes.
 20 Q So he talks informally to Tom Wilson, is that
 21 what you're saying?
 22 A I'm assuming, yeah.
 23 Q How do you know that that's what happens?
 24 A I don't know.
 25 Q Well, then let me just ask you and I'm just

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1 A Um-hum.
 2 Q -- that says suggested ideas? Did you prepare
 3 that?
 4 A Yes, um-hum.
 5 Q What was the suggested idea in here? Was it
 6 the building permit price, is that what you're referring to?
 7 A Yes, uh-huh. We had had a -- just a one
 8 figure building price before and we felt that it should be
 9 graduated and so this was voted on to -- in March '99 to
 10 have a graduated cost.
 11 Q Understood. Well, actually it says March
 12 1994. Is that what you mean?
 13 A What?
 14 Q Actually it says March 1994 there.
 15 A Oh, yes.
 16 Q Is that what you mean?
 17 A Yes, I'm sorry.
 18 Q Now, was there anything else attached to this
 19 document at the time? And for the record --
 20 A No.
 21 Q -- actually I should tell other defense
 22 counsel that these are documents that we got when we went up
 23 to Huntingdon County last week.
 24 A No, this comes out of my -- out of my building
 25 permit book.

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1 curious. Then why did you say you think that's what
 2 happens?
 3 A Well, because I know that Tommy Wilson very
 4 often does some of the work on septic tanks and so that
 5 means that -- that he has to talk to Barry Parks.
 6 Q So if there's a problem they just work it out
 7 between the two of them?
 8 A Right.
 9 Q Do you know of very many instances in which
 10 that has occurred?
 11 A No, I don't.
 12 Q So nobody ever told you about an appeal of the
 13 building permit decision, nobody ever mentioned it to you?
 14 A Of which one?
 15 Q Mr. Corneal's, I'm sorry.
 16 A No, no.
 17 Q I'm going to show you another document now
 18 that we're going to mark as Van Dommelen Exhibit 4 and ask
 19 you to take a look at it for me. This is the suggested
 20 ideas document.
 21 (Suggested ideas produced and marked as Van
 22 Dommelen Exhibit No. 4.)
 23 BY MS. MONTGOMERY:
 24 Q Now, Mr. Van Dommelen, do you recognize this
 25 cover sheet --

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1 Q Is there any reason why it's attached to the
 2 -- I will represent to you that we got it attached --
 3 A Attached to this are all the -- all the
 4 applications that I file.
 5 Q Since 1989?
 6 A Since 1989, yeah.
 7 Q Is this a copy -- starting with the second
 8 page where it has name, fee, date, permit of different
 9 people, is this a copy of what you keep in your black
 10 binder?
 11 A Yes, uh-huh.
 12 Q Is this an exact copy --
 13 A Yes.
 14 Q -- of what you would keep in your black
 15 binder?
 16 A It looks like it.
 17 Q Let's turn to the next to the last page --
 18 actually I'm going to direct your attention to the third to
 19 the last page instead, sorry about that.
 20 A Which one?
 21 Q Third to the last page where it says -- you
 22 have the name Pauline Weaver there at the bottom of the
 23 page. It's the fourth name from the bottom of the page.
 24 A Paul who?
 25 Q Pauline Weaver.

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1 A Oh, yes, uh-huh.
2 Q Do you recall that application?
3 A No.
4 Q Do you know who Pauline Weaver is?
5 A Well, I'm sure I met her. I'm not sure.
6 There are several Weaver families and I'm not sure which one
7 this one is.
8 Q Now, over on the right-hand column -- it seems
9 like some of this is missing. That's the way it came to
10 us. What would have been in the right-hand column?
11 A On the far right-hand column?
12 Q Yes.
13 A Those are the plot numbers for -- the plot
14 numbers that are on the plot plans for the township.
15 Q Do you think that you could provide a copy of
16 this document that doesn't cut off the plot numbers?
17 A They were on -- they were on.
18 Q Did you get your original back?
19 A No.
20 Q Miss Wirth still has it?
21 A I don't know where it is.
22 Q Maybe we still have it.
23 MS. MALADY: We can check.
24 MS. MONTGOMERY: Maybe we did it.
25 THE WITNESS: Because it's on the original

95

1 because these are all the lists of the plot numbers.
2 MS. MONTGOMERY: Okay. All right, that's
3 fine. We may have to make new copies and get them out to
4 you guys.
5 BY MS. MONTGOMERY:
6 Q In the most right-hand column that's fully
7 showing, under purpose there, across from Pauline Weaver,
8 what does that say? Is that meant to be garage?
9 A Oh, it must be garage. For Weaver you mean?
10 Q Yes, for Pauline Weaver.
11 A Yes, my typing ability.
12 Q So that was approved, right, that building
13 permit?
14 A Yes, uh-huh.
15 Q But you don't recall anything about Pauline
16 Weaver and her whole situation, right?
17 A Pardon?
18 Q You don't recall anything about Pauline Weaver
19 and her situation?
20 A No, I don't. I'd have to see the original --
21 Q Do you recall Joe Merrell?
22 A Which one is that?
23 Q Joe Merrell which is two lines down from
24 Pauline Weaver.
25 A Oh, Jan Cramer?

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1 Q No, it says Joe Merrell, two lines down from
2 Pauline --
3 A Oh, Joe Merrell?
4 Q Yes.
5 A All right. No, I don't recall which one
6 he is.
7 Q You don't recall him?
8 A No, I can't recall him.
9 Q How about Ruby Dunlap? That's on the next
10 page, the April 17, 2000 building permit application.
11 A Yeah, I see it.
12 Q Do you see that?
13 A Yeah.
14 Q Do you recall that application?
15 A I'm not sure. I'm not sure.
16 Q What about the one above it, Douglas Reid with
17 the house, the purpose is a house?
18 A Yes, I do -- I do recall that case.
19 Q Mr. Reid?
20 A Uh-huh.
21 Q You recall that?
22 A Yeah, I recall that because that was built on
23 a floodplain and they had to get approval from the federal
24 government to rebuild a house that burnt down on the
25 floodplain.

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1 Q Did they get that approval?
2 A Yes, they got -- engineers came out and
3 checked the floodplain and recommended that they build the
4 house, you know, at a certain height and so it's above the
5 100 year floodplain.
6 Q And did the -- the supervisors wouldn't have
7 had anything to say about that then; is that correct?
8 A No, no, it has to be done -- it has to be done
9 by an engineer that comes out and does the approval for
10 that.
11 Q So once the federal government looks at it,
12 it just comes right back to you for approval or disapproval?
13 A Yes, I usually get a letter and -- from the --
14 and that letter would be accompanied by the building permit
15 in my little black book.
16 Q So the house burnt down. Do you recall the
17 size of that property? Do you recall that property
18 generally?
19 A Pardon?
20 Q Do you recall that property generally?
21 A Yes, uh-huh.
22 Q What's the size of that property?
23 A Oh, in terms of acreage I don't know.
24 Q Do you know whether there were any other
25 structures on the property?

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1 A No, I don't know.
 2 Q What about Robert Weaver which is --
 3 A Okay. Yeah, Robert Weaver is building a
 4 workshop.
 5 Q And that application date was May 4, 2000,
 6 correct?
 7 A Yes. And we've had a little bit of problems
 8 because he's running out of -- he isn't getting it done and
 9 there's a year -- you know, a building permit is good for a
 10 year.
 11 Q I see.
 12 A And so -- and his son is in Alaska half the
 13 time and so it's not progressing.
 14 Q Who is his son?
 15 A Well, his son is Robert Weaver.
 16 Q Well, who's the father then?
 17 A Yeah, that's -- the father is --
 18 Q Is he Robert Weaver, too?
 19 A Yeah, I believe so.
 20 Q Are they both Robert Weaver?
 21 A I believe so.
 22 Q Who owns the land?
 23 A The father.
 24 Q And the father applied for the building
 25 permit?

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1 A Yes.
 2 Q But the son is building the garage?
 3 A Yes.
 4 Q Or the workshop?
 5 A The workshop, yes.
 6 Q What's the workshop for?
 7 A I think woodworking.
 8 Q Does it have any water in it?
 9 A Not yet. They're not that far.
 10 Q Are they looking --
 11 A But they have a septic system there and it's
 12 not a subdivided piece of property.
 13 Q You mean they have a septic system already on
 14 the property?
 15 A Yes, uh-huh. And since it's not a house and
 16 -- you know, it wouldn't need one because they have a
 17 system there already.
 18 Q But it wouldn't need one anyway, right, since
 19 it's not a house --
 20 A No.
 21 Q -- unless it has water?
 22 A Right.
 23 Q Correct?
 24 A Pardon?
 25 Q Unless it has water?

100

1 A Yes, right.
 2 Q Well, let me show you -- we're going to mark
 3 this as Van Dommelen Exhibit 5, application for building
 4 permit for Robert Weaver.
 5 (Application for building permit produced and
 6 marked as Van Dommelen Exhibit No. 5.)
 7 BY MS. MONTGOMERY:
 8 Q Do you recall this application?
 9 A Yes.
 10 Q So down there where you checked granted, you
 11 granted this application, correct?
 12 A Yes.
 13 Q Which is noted by the fact that you marked it
 14 with an X, right?
 15 A That I what?
 16 Q That you marked the document with an X where
 17 it says granted, correct?
 18 A I still didn't understand you.
 19 Q The fact that you approved -- this is -- on
 20 this document where it says granted and you put an X --
 21 A Yes.
 22 Q -- that's how you keep a record of whether or
 23 not you've approved --
 24 A Yes.
 25 Q -- a building permit application, correct?

101

1 A Right, X or ...
 2 Q At the location, what is that -- 514 what,
 3 what's that road?
 4 A That's 514, Box 514, Route 1, Petersburg,
 5 16669.
 6 Q Oh, but I'm looking at where it says at
 7 location 514 and then there's a word after that.
 8 A That's -- that's the box number.
 9 Q It says a-b-u-t-e or something. I can't read
 10 that word.
 11 A Yeah.
 12 MS. THORP: Above.
 13 BY MS. MONTGOMERY:
 14 Q Is that above?
 15 A Yeah, I believe it is.
 16 Q Where it says 514 above?
 17 A Yeah.
 18 Q Now, you had indicated that the Weaver
 19 property has septic, right?
 20 A Yes, it has a house there.
 21 Q It has a house there?
 22 A Um-hum.
 23 Q And where is the workshop in location to the
 24 house?
 25 A It's about 25 feet behind the house.

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1 Q Do you recall how big that property is?
 2 A No, I -- no, I don't know. It must be at
 3 least 10 acres because in that area most pieces of property
 4 are in 10 acres and that piece abuts the Corneal property.
 5 Q Now, I'm looking a little further down on this
 6 sheet where it says Karl Aronson, workshop. Do you see
 7 that?
 8 A Which page is that on?
 9 Q It's the same page as Robert Weaver's was on.
 10 A Okay. Paul?
 11 Q It says Karl Aronson.
 12 A Oh, uh-huh.
 13 Q Do you see that?
 14 A Yes.
 15 Q Do you recall that property?
 16 A Yes, um-hum.
 17 Q And what kind of workshop is that?
 18 A I'm not sure what -- that was interesting
 19 because they demolished a barn and then just replaced the
 20 workshop on the barn and I'm not sure what kind of workshop
 21 it is.
 22 Q But you granted that building application,
 23 right?
 24 A Pardon?
 25 Q You granted that building application,

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1 last page --
 2 A Yes.
 3 Q -- is he the township supervisor?
 4 A Yes.
 5 Q I think that's all the questions I have for
 6 you right now about this document. We may go back to it
 7 later.
 8 MS. MONTGOMERY: How does anybody feel about
 9 lunch at this time?
 10 (Discussion held off the record.)
 11 BY MS. MONTGOMERY:
 12 Q Mr. Van Dommelen, I'm just going to go through
 13 this collection of documents that you brought down with you
 14 today. And I'll ask you just to look at the first one.
 15 It's just a City Bar and Grill receipt.
 16 A Oh, that's my -- from the last time I was here
 17 and -- for lunch.
 18 Q You were here in connection with the
 19 deposition?
 20 A Yes, uh-huh, and sat for six hours.
 21 Q Okay. Who did you have lunch with that day?
 22 A And those are just -- I'll be turning those in
 23 to -- for reimbursement.
 24 Q Right, I understand. Who did you have lunch
 25 with that day?

103

1 correct?
 2 A Yes, uh-huh.
 3 Q In fact, if you start at the third page from
 4 the end to -- starting with the Pauline Weaver
 5 application --
 6 A Um-hum.
 7 Q -- and going all the way to the end --
 8 A Um-hum.
 9 Q -- which is Stoney Lonesome Camp requesting a
 10 building application for a pavilion --
 11 A Yes.
 12 Q -- have you granted all of those applications?
 13 A Yes, uh-huh.
 14 Q Did you visit any of those properties to see
 15 what was going on?
 16 A Yes, I have.
 17 Q Which ones?
 18 A I've -- I drive by Tuckaway Tree Farm every
 19 day and so I could see how that barn was going on and I go
 20 up to Stoney Lonesome Camp to visit friends up there.
 21 Q Did you make a specific trip out to any of
 22 these properties just to make sure that the building was --
 23 A Not at these, no.
 24 Q Do you know whether any of these properties --
 25 well, strike that. This Michael Yoder on the next to the

105

1 A Pardon?
 2 Q Who did you have lunch with that day?
 3 A My friend from Iowa drove down with me.
 4 Q Just the two of you?
 5 A Pardon?
 6 Q Just the two of you?
 7 A Yes, um-hum.
 8 Q Did he drive down here with you?
 9 A Yes.
 10 Q He drove to Harrisburg with you?
 11 A Pardon?
 12 Q He drove to Harrisburg with you?
 13 A Yes.
 14 Q Was it just the two of you that drove down?
 15 A Yes, um-hum.
 16 Q I want you to just look at your curriculum
 17 vita for a second. How did you come to prepare this
 18 curriculum vita?
 19 A Well, I keep one every year to either send to
 20 galleries where I'm exhibiting and to -- you know, to
 21 editors and publishers.
 22 Q Did you put it together for some reason for
 23 this lawsuit?
 24 A No, I just thought maybe someone would -- you
 25 know, I just threw it in here for -- no, no, no, this is on

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1 my computer. I use this and update it every year.
2 Q But I just wondered why you had it in your
3 file that --
4 A Well, I just thought someone might want it.
5 Q Okay. Well, it's a great resume.
6 A Pardon?
7 Q It's a great resume. Now, the next thing --
8 actually, let me put your original back in your file so I
9 can keep that altogether. The next thing I'm going to show
10 you is a couple of -- it's a page that appears to just be a
11 -- it says Roman Numeral III-2. It's a section of
12 something. Can you just tell me what that is?
13 A Oh, yeah, it's about -- it comes out of a
14 subdivision -- an ordinance, our ordinance book and -- so we
15 were just -- I wanted to refresh my memory about
16 subdivisions and so that's why that's in there.
17 Q And when did you do this?
18 A Oh, I don't know. Probably a few months ago.
19 Q In connection with the lawsuit?
20 A Well, in clarifying in my -- you know, in my
21 mind about that.
22 Q Now, the next thing is a collection of
23 documents where you have yellow stickies on, Exhibit A and B
24 to Exhibit Z. Is that your handwriting on those yellow
25 stickies?

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1 A Yes, uh-huh, but I can't remember why I put
2 them on.
3 Q Are they the exhibits to the complaint?
4 A Pardon?
5 Q Are they the exhibits to the complaint in this
6 action?
7 A I'm not -- oh, yes, yes, I see what you're
8 saying. This is part of the Corneal -- and they were
9 attached to his -- his thing.
10 Q His complaint, right?
11 A Yeah, um-hum.
12 Q On that document there's some red
13 underlining. This is the stuff that probably won't show up
14 on the copies. On the document that's February 24, 2000,
15 Huntingdon County Planning Commission letter, there's some
16 red underlining there. Is that your handwriting there?
17 MS. MONTGOMERY: And I don't know if you guys
18 can see it but -- yes, it's in black underline.
19 THE WITNESS: Yeah, I'm assuming that's mine.
20 BY MS. MONTGOMERY:
21 Q So you did that?
22 A Yes.
23 Q Do you recall why you underlined that?
24 A No, I'm not sure.
25 Q Then there's sort of a parens around number 8

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1 at the bottom of that page. Did you do that mark as well?
2 A I assume I did. I'm not sure why.
3 Q What about over on number 12?
4 A Yes, I see there's -- yeah.
5 Q Where it says -- you underlined recommends
6 disapproval of this proposal.
7 A And I assume that I put that down there,
8 um-hum.
9 Q Do you recall why -- I mean, why did you mark
10 this up? Was it --
11 A Well, I was just noticing that the Huntingdon
12 County Planning Commission disapproved of the proposal and I
13 just --
14 Q Later they recommended approval, right?
15 A Yeah.
16 Q Correct, later they recommended approval of
17 the subdivision?
18 A Oh, yes, uh-huh.
19 Q Did somebody tell you that they had
20 recommended approval of Mr. Corneal's subdivision?
21 A Oh, no, no, no, I didn't -- I misunderstood
22 you. No, I don't know about that.
23 Q Now, the next document is a copy of the
24 complaint that was filed in this action and I'm just going
25 to ask you to look at it with me and tell me whether the

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1 handwriting that appears throughout this document is your
2 handwriting. For instance, go to --
3 A Yes, that's -- um-hum.
4 Q That is your handwriting?
5 A Um-hum, right.
6 Q Now, can you tell me, for example, where it
7 says -- at Paragraph 12 on page 4 where you wrote in acted
8 in.
9 A Which -- page what?
10 Q Page 4, the paragraph number is 12.
11 A I'm not sure why I put that in.
12 Q What about the next page at Paragraph 15 and
13 you handwrote in had not recorded deed when he started.
14 What does that mean?
15 A Well, these -- all of these marks here are --
16 we went over with Larry and we said we can admit this and we
17 can admit that and this is true and we made just comments in
18 general. And this was that he hadn't recorded the deed when
19 he started working on -- he hadn't recorded his deed yet
20 when he started building.
21 Q Hadn't recorded what deed?
22 A The deed of his property.
23 Q When he started building which was -- well,
24 let's see, the property was acquired by the Corneals in
25 October 1998, right?

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1 A Yes.
 2 Q That's correct, right?
 3 A I assume it is.
 4 Q And he started building what, in 2000,
 5 correct?
 6 A Right, uh-huh.
 7 Q And you're saying that he hadn't recorded the
 8 deed to this property?
 9 A That's what was commented on, I think.
 10 Q Does that have any significance for you?
 11 A No, not really.
 12 Q Look at Paragraph 23 on page 6 where you have
 13 handwritten in related to sewage module.
 14 A Um-hum.
 15 Q Does that have any significance to you right
 16 now?
 17 A Well, that's that it -- we're talking about
 18 the initial plan was related to sewage modules and that --
 19 that's what this whole thing was about really here,
 20 subdivision and the sewer modules hadn't been --
 21 Q Do you see the allegation --
 22 A Pardon?
 23 Q Do you see the allegation in that paragraph
 24 that the Corneals -- at the end of the paragraph, the fourth
 25 line from the top -- bottom says the Corneals were advised

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1 BY MS. MONTGOMERY:
 2 Q Do you actually remember --
 3 A Huh?
 4 Q Do you actually remember why you wrote that
 5 down?
 6 A Pardon?
 7 Q My question was -- I'm sorry. My question
 8 was: Do you actually remember why you wrote down --
 9 A Oh, no, I don't remember why.
 10 Q In what context were these notes taken? Were
 11 you on a telephone conference or in a group meeting or what?
 12 A No, we had a small meeting about this.
 13 Q Who all was there?
 14 A All the supervisors, Larry and Barry Parks.
 15 Q And yourself?
 16 A And myself, right.
 17 Q Anybody else?
 18 A No, I think that's it.
 19 Q Where was that meeting?
 20 A That was at Ann Wirth's, the secretary's
 21 office.
 22 Q In that little office there on her property?
 23 A Right.
 24 Q When was it, do you recall?
 25 A I can't recall. It would be after this came

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1 by defendant Wilson that insofar as the township was
 2 required to sign the plan, good politics suggested that the
 3 initial plan should be presented to the board of supervisors
 4 for review. Are you familiar with that allegation?
 5 A No, unh-unh.
 6 Q You don't know anything about that
 7 conversation?
 8 A No, unh-unh.
 9 Q Do you see at Paragraph 25 on page 7 --
 10 A Um-hum.
 11 Q -- where you have the Corneals were not
 12 advised that subdivision approval was not required and then
 13 you wrote in never gave -- I'm sorry, you wrote in never
 14 gave to township, he was informed about the moratorium. Why
 15 did you write that in there?
 16 A I'm assuming that he said that the township
 17 had never informed him about the moratorium.
 18 Q That's your assumption of why you wrote that
 19 down there?
 20 A Um-hum.
 21 Q I mean, do you actually remember why you wrote
 22 it down?
 23 (No response.)
 24 MS. THORP: Bridget, I don't think he heard
 25 your last question.

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1 out so ...
 2 Q What about 51, Paragraph 51 on page 11?
 3 A Well, it's -- the whole concern was that he
 4 had no plan and no subdivision.
 5 Q But see where you've written not subdividing,
 6 what does that mean?
 7 A Well, he was -- first of all, he was saying he
 8 didn't have a -- he was going to subdivide and then he said
 9 he wasn't going to subdivide so he was fluctuating back and
 10 forth.
 11 Q Right, but didn't he say he wasn't going to
 12 subdivide after you guys told him he couldn't subdivide
 13 because there was a moratorium in place, right?
 14 A Well, I think so, but it was difficult to keep
 15 track of when he was saying what.
 16 Q But isn't it true that he just -- he changed
 17 his mind --
 18 A Yes.
 19 Q -- when he couldn't get the approvals he
 20 needed, right?
 21 A Yeah, um-hum.
 22 Q Here you say -- at Paragraph 53 you have
 23 underlined language indicating that --
 24 A The underline there, the art studio?
 25 Q Yes, art studio have sewer access and then you

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1 have untrue out in the margin there. What does that mean?
2 What were you saying was untrue there?
3 **A Well, there was a comment about the fact that**
4 **he was advised that -- for a privy permit and you can't have**
5 **privy permits anymore.**
6 **Q But you've underlined art -- you know,**
7 **something indicating that he was -- the art studio had to**
8 **have sewer access reference. Are you saying that it was**
9 **untrue that he was ever told that the art studio had to have**
10 **sewer access?**
11 **A Well, no, I guess not.**
12 **Q I mean, do you recall any discussion about**
13 **whether the supervisors told him the art studio had to have**
14 **sewer access?**
15 **A No, I'm not sure.**
16 **Q You don't recall that?**
17 **A No, I don't recall that.**
18 **Q The art studio wouldn't have to have sewer**
19 **access, though, right, if there wasn't water, right?**
20 **A No, if there was no water.**
21 **Q Now, on 54 you have marked untrue out in the**
22 **margin there.**
23 **A Well, what is -- he was saying that we refused**
24 **to issue a permit and we wouldn't assist him and that wasn't**
25 **true. We would assist him if he did the proper things.**

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1 **Q What did you think were the proper things that**
2 **he had to do to build an art studio?**
3 **A (No response.)**
4 **Q What did they think were the proper things**
5 **that he had to do to build an art studio?**
6 **A Well, then he should have proper sewage.**
7 **Q What about in 57 which is on page 12?**
8 **A Yeah.**
9 **Q Do you see where you have deny no something?**
10 **I can't read the other word. What is that?**
11 **A No help.**
12 **Q Okay. Deny that you've refused to provide**
13 **help, is that what you're saying?**
14 **A Right, uh-huh.**
15 **Q Look at 61 where you have refused because of**
16 **sub, etcetera. What does that mean?**
17 **A Subdividing.**
18 **Q So Able Construction refused to do the**
19 **roadwork because they thought he might subdivide, is that**
20 **your understanding?**
21 **A Well, it depends -- he didn't get any road**
22 **permit, plus the one road he started to put in was going to**
23 **go in through wetlands and that's not allowed. So he had to**
24 **stop putting that road in.**
25 **Q How do you know that?**

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1 **A How do I know what?**
2 **Q How do you know he was starting to put a road**
3 **in near wetlands?**
4 **A Because you can see it.**
5 **Q Did somebody tell you that, though?**
6 **A What?**
7 **Q How did you know they were wetlands, what you**
8 **were seeing?**
9 **A Well, it's -- you can see that it's wetlands**
10 **and --**
11 **Q Do you have any responsibility to determine**
12 **what wetlands are in connection with township work?**
13 **A No, that comes from the federal government and**
14 **they determine that.**
15 **Q Let's go to page 13 and look at Paragraph 66.**
16 **Do you see that?**
17 **A Um-hum.**
18 **Q Now, where you wrote true, was that an**
19 **indication that you would admit it?**
20 **A Well, it's a true statement that in order to**
21 **get a permit the township provides the permits.**
22 **Q So was that -- when you wrote true, was that**
23 **indicated -- was that your indication that --**
24 **A That that statement is true.**
25 **Q That you should admit it in the answer to the**

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1 **complaint, is that what you're saying?**
2 **A Yes, um-hum.**
3 **Q On page 70 -- I'm sorry, page 14, Paragraph 70**
4 **it says deny -- it says WO septic. Do you mean without**
5 **septic?**
6 **A Without septic.**
7 **Q Now, this paragraph makes reference to the**
8 **garage, right?**
9 **A Right.**
10 **Q What is your reference to septic there, what**
11 **is that?**
12 **A Well, the supervisors said that we were going**
13 **to deny it because he doesn't have septic.**
14 **Q So that's all that reference is to there?**
15 **A Yes.**
16 **Q Now, at Paragraph 71 you have -- is that your**
17 **handwriting, hearsay?**
18 **A Pardon?**
19 **Q At Paragraph 71, is that your handwriting,**
20 **hearsay?**
21 **A Yes, uh-huh.**
22 **Q Are you familiar with the term hearsay?**
23 **A Well, I've heard -- I've heard the term.**
24 **Q Why did you put that in there?**
25 **A Because I recall Larry made that comment.**

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1 Q He said that would be hearsay --
 2 A Yes.
 3 Q -- so we'll deny it or something because it's
 4 hearsay?
 5 A Apparently.
 6 Q Well, is that a true statement, that you
 7 advised Mr. Corneal that had any other property owner
 8 requested the permit it would have been issued? Is that a
 9 true statement?
 10 A It's really not true because I would -- if
 11 someone had all the proper -- the proper papers, then I
 12 would submit -- you know, or issue a permit.
 13 Q But let me go back a second. In a lot of
 14 these paragraphs you say true or deny or true or untrue and
 15 here you have hearsay. Was there some discussion about why
 16 you would put hearsay in there instead of just true or
 17 untrue?
 18 A No, unless -- unless Larry said that.
 19 Q Now, you're saying --
 20 A All these -- all these things that are written
 21 in here were done in front of everybody and --
 22 Q But you said it's really not true, but I'm
 23 really just asking -- it's really not true that you would
 24 have issued it to any other property owner. What I'm really
 25 asking you -- this allegation says that you advised Mr.

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1 Corneal that had it been any other property owner he would
 2 have gotten it. Is that a true or a false statement? Did
 3 you actually say that to Mr. Corneal?
 4 A No, not like that.
 5 Q What did you say to him? Exactly what did you
 6 say?
 7 A It would be -- I would issue if you had the
 8 proper documentation for a sewage and subdivision.
 9 Q Okay. Would you be looking for a subdivision
 10 plan for somebody that wants to build a garage?
 11 A I'm just saying -- I'm answering what the
 12 supervisors told me.
 13 Q Did you give Mr. Corneal any indication that
 14 this was -- this situation where he couldn't get an
 15 application even or a permit was aimed at him specifically
 16 personally?
 17 A No, no.
 18 Q Did you take any other notes in that meeting?
 19 A No.
 20 Q Did you receive copies of anybody else's notes
 21 taken in that meeting?
 22 A No, unh-unh.
 23 Q Now I'm going to show you --
 24 A Do you want this back or --
 25 Q No. Is that your -- is that the original?

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1 Yes, it is, isn't it?
 2 A Yeah, I believe it is the original.
 3 Q We'll put that back in your file.
 4 A Okay.
 5 Q I'm going to show you now what's -- we're not
 6 marking it, but it's a deposition -- it's a copy of the
 7 deposition transcript of David Corneal that we have from
 8 your file with some yellow highlighting on it, which I don't
 9 know if that will show up. I don't think it will so it's
 10 going to be tough to talk about.
 11 Now, you circled also present Sandra Y.
 12 Corneal on page 2.
 13 A Um-hum.
 14 Q Why did you circle that?
 15 A Well, I circled that because I couldn't
 16 understand why she could be at that meeting but my wife
 17 couldn't be at this one.
 18 Q Oh, she's a -- it's because she's a party.
 19 A Well, my wife is a party, too. She might not
 20 be listed but she -- as long as I'm a party, she's a party.
 21 Q Okay, I understand your position. Now, I want
 22 you to just go through the -- since nobody else can see the
 23 highlighting, we're just going to try to make a record of it
 24 and just the first place you see highlighting in your
 25 document, just tell us what page you're on and we'll read

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1 along with you.
 2 A That's page 3.
 3 Q On page 3?
 4 A Um-hum.
 5 Q What did you highlight on there, the first
 6 part?
 7 A For high blood pressure. I'm taking a similar
 8 kind of a -- I was just noticing that you were asking about
 9 medications.
 10 Q I see. What was the next thing?
 11 A Pardon?
 12 Q What was the next thing you highlighted?
 13 A The next thing is social security number. Had
 14 you asked me what mine is I wouldn't have been able to tell
 15 you. I can never --
 16 Q Okay, that's why you highlighted that.
 17 A Yeah.
 18 Q The next thing you highlighted? We'll come
 19 back to the other markings on here, but we'll just go
 20 through the highlighting to make it simple that way. What
 21 is the next thing you highlighted?
 22 A Highlighted or circled in red?
 23 Q Highlighted, just the highlighting for now.
 24 What page?
 25 A Page 8 up on 28.

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1 Q And what is that?
 2 A And it says we are contemplating building.
 3 Well, he was building already. And I said we are both
 4 artists and we were thinking of a summer home and an art
 5 studio. Well, I didn't know he was an artist -- well, I did
 6 really but -- yeah, that --
 7 Q The next thing you highlighted is what?
 8 A Nine. Well, I just highlighted this to --
 9 Q What did you highlight because we can't see
 10 it?
 11 A Well, just the whole concept of the SEO, about
 12 the sewage and just to see what some of the issues were
 13 there. There is nothing specifically, just -- you know,
 14 not --
 15 Q Were you just trying to prepare yourself for
 16 your own deposition --
 17 A Right, uh-huh.
 18 Q -- to understand the case?
 19 A Yes, for my own information.
 20 Q And did you do this by yourself when you did
 21 all this highlighting? Don't leave page 9 yet, okay,
 22 because I have another question for you. Did you do that by
 23 yourself?
 24 A Yeah, my wife read through this also and she
 25 made some grammatical checks.

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1 Q I see.
 2 A And misspellings.
 3 Q That was good of her. What about on -- see
 4 where it's -- the whole page is numbered 9 but then the
 5 little insert page is numbered 31, I think?
 6 A Yeah, 31.
 7 Q You've got some text highlighted there, don't
 8 you?
 9 A Pardon?
 10 Q You have some text highlighted there?
 11 A Yes, uh-huh.
 12 Q What is that?
 13 A Well, it's -- it shows he was interested in
 14 dividing off the land into acreage.
 15 Q And what significance does that have to you?
 16 A About the concept of subdividing.
 17 Q But I don't understand, what is it -- I mean,
 18 everybody knew he initially wanted to subdivide, right?
 19 A Yes.
 20 Q And then everybody knew after that he said he
 21 wouldn't subdivide?
 22 A Yeah, and I just put these down for my own
 23 personal looks.
 24 Q Well, was there some issue about the fact that
 25 since he first said he wanted to subdivide and then he later

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1 decided that he didn't want to subdivide, is that some big
 2 issue with the supervisors and you?
 3 A Yes, it was.
 4 Q What is the issue?
 5 A The issue was that -- that he hadn't given any
 6 plans to the supervisors and yet he was saying he was going
 7 to subdivide. He hadn't gone to the county. There are
 8 certain steps to subdivide that one has to take.
 9 Q But then my question was a little bit
 10 different than that. Is there some issue that you and the
 11 supervisors are taking with the fact that first he said he
 12 wanted to subdivide and then he said he didn't want to
 13 subdivide? After he was told he couldn't subdivide, he said
 14 he didn't want to subdivide. Is there something going on
 15 there that is significant?
 16 A Yeah. Well, he still needs to subdivide
 17 because he's got another house on that property as well.
 18 Q So that's your point of the whole thing?
 19 A Yeah, that's the point of the supervisors.
 20 Q Okay. So you think he still needs to
 21 subdivide because there's that old farmhouse on the
 22 property?
 23 A Yes, uh-huh.
 24 Q Now, you said that he never gave them any
 25 plans. How do you know he never gave them any plans?

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1 A Pardon?
 2 Q How do you --
 3 A Because they said so.
 4 Q Because they said so?
 5 A Yes, um-hum.
 6 Q Were you at the meeting, though --
 7 A No.
 8 Q -- when he tried to hand out those plans?
 9 A No.
 10 Q What's the next thing you've highlighted?
 11 MS. MONTGOMERY: Hold on, my co-counsel
 12 has ...
 13 BY MS. MONTGOMERY:
 14 Q Do you have some highlighting on page 10 back
 15 there?
 16 A On 10, yes, uh-huh.
 17 Q What's highlighted there?
 18 A Again, this is going back to the concept of
 19 decide based on finding of on-site septic suitability and
 20 just to make me see the points on the whole septic question.
 21 Q That's in little insert 35, right, on the
 22 insert page?
 23 A Right, yes.
 24 Q What we call these, just to make it simple for
 25 the record, is these are manuscript -- what they call a

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| | |
|--|--|
| <p style="text-align: right;">126</p> <p>1 minuscrypt. They're small --</p> <p>2 A They're what?</p> <p>3 Q They're small transcripts of the deposition so</p> <p>4 you get four pages on one.</p> <p>5 A Yeah.</p> <p>6 Q So we'll refer to these inserted numbers as</p> <p>7 minuscrypt numbers.</p> <p>8 A Okay.</p> <p>9 Q And that will make it easier for us.</p> <p>10 A Oh, I see, okay.</p> <p>11 Q It would be helpful if we'd refer to the</p> <p>12 minuscrypt and then the lines that are along the left-hand</p> <p>13 side.</p> <p>14 A Okay.</p> <p>15 Q Then we'll be able to -- everybody else will</p> <p>16 be able to follow along because the highlighting doesn't</p> <p>17 copy over and that's why we're going through this exercise.</p> <p>18 A Right, um-hum.</p> <p>19 Q On page 35 you have -- on minuscrypt 35 you</p> <p>20 have highlighted what language?</p> <p>21 A Lines 6, 7 and 8.</p> <p>22 Q A boundary survey and then eventually</p> <p>23 divide --</p> <p>24 A Right, uh-huh.</p> <p>25 Q -- things up into lots, whatever lots we</p> | <p style="text-align: right;">128</p> <p>1 A No.</p> <p>2 Q Do you recall any of the conversation or --</p> <p>3 A No.</p> <p>4 Q -- being told about it by --</p> <p>5 A No. Well, of course, I know there's no</p> <p>6 building code.</p> <p>7 Q Right.</p> <p>8 A We have no inspection of wiring or any kind of</p> <p>9 building codes as such. The only thing that we have is the</p> <p>10 septic tank and the subdivision and -- well, there are a few</p> <p>11 other things that -- you can build a swimming pool without</p> <p>12 any kind of a permit and --</p> <p>13 Q You can?</p> <p>14 A Yes, uh-huh. And a farmer can build a silo</p> <p>15 for grain without any kind of a permit. So there are some</p> <p>16 things like that.</p> <p>17 Q Where is this contained? Is it in the --</p> <p>18 A It's in the ordinances.</p> <p>19 Q Which ordinance, do you know?</p> <p>20 A Pardon?</p> <p>21 Q Do you know which ordinance that's in?</p> <p>22 A The building permit ordinance.</p> <p>23 Q The setback line, is that --</p> <p>24 A That's in the building permit ordinances, too.</p> <p>25 Q The next thing that you've highlighted,</p> |
| <p style="text-align: right;">127</p> <p>1 decided on based on the SEO's finding of on-site septic</p> <p>2 suitability.</p> <p>3 A Again, just to recall some of the topics and</p> <p>4 issues that were on hand. That's what all these -- on 36</p> <p>5 and 37.</p> <p>6 Q Same thing for the highlighted text?</p> <p>7 A Thirty-six is highlighting 13, 14 and 15 and</p> <p>8 16.</p> <p>9 Q And 37?</p> <p>10 A And 37 is line 4 and 5.</p> <p>11 Q Okay. What's the next highlighted section</p> <p>12 that you come to?</p> <p>13 A Page 15. The whole thing on 56.</p> <p>14 Q You highlighted all of minuscrypt 56?</p> <p>15 A Yes. And, again, that was just talking about</p> <p>16 the subdividing of land.</p> <p>17 Q This makes reference to a conversation that</p> <p>18 Mr. Corneal says he had with Mr. Wilson, right?</p> <p>19 A Yes, um-hum.</p> <p>20 Q Do you know whether -- has Mr. Wilson ever</p> <p>21 discussed this conversation with you, this --</p> <p>22 A No.</p> <p>23 Q Where he says that you can build whatever you</p> <p>24 want, there's no code, there's no building code, there is no</p> <p>25 subdivision?</p> | <p style="text-align: right;">129</p> <p>1 please?</p> <p>2 A Well, the whole thing about an investment.</p> <p>3 Q What page?</p> <p>4 A Page 17, 62 and down to 63.</p> <p>5 Q Those are the minuscrypt numbers, 62 and 63?</p> <p>6 A Yeah, just --</p> <p>7 Q Why did you highlight that?</p> <p>8 A I just thought it was sort of funny.</p> <p>9 Q What was funny?</p> <p>10 A About his investment and how he's not affluent</p> <p>11 and -- it was just a personal observation.</p> <p>12 Q What was your personal observation about him</p> <p>13 not being affluent?</p> <p>14 A Well, he says on 63, line 6, I'm not an</p> <p>15 affluent person. Well ...</p> <p>16 Q Well, doesn't he finish that I can afford to</p> <p>17 buy property and sit around on it; is that correct?</p> <p>18 A And the property was worth -- you know, he</p> <p>19 paid 300 and some thousand dollars for it. So it seems to</p> <p>20 me like you have to be a little affluent.</p> <p>21 Q To buy property worth that much?</p> <p>22 A Yeah, and when you have property in Florida</p> <p>23 and when you have property throughout State College and --</p> <p>24 so I thought it was sort of a funny remark.</p> <p>25 Q Okay, I see. What's the next thing you have</p> |

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1 highlighted? Did you say -- you said the lines?
2 A Sixty-five, 1, 2, 3, 4, 5 lines. It's hard to
3 subdivide land when there is no subdivision ordinances.
4 Again, it's just something that I marked for my own
5 interest.
6 Q What was interesting to you about that?
7 A Well, the fact that he's talking about that
8 when -- first of all, he says there's no subdivision -- it
9 just -- it's not an intellectual, you know, conversation.
10 It's a non-issue, is what I'm saying.
11 Q It's a non-issue that there was no subdivision
12 ordinance?
13 A Yes.
14 Q Why is that a non-issue?
15 A I don't -- my wife and I always have things
16 that it's a non-conversation.
17 Q I understand.
18 A You understand what I'm saying?
19 Q Well, are you saying it doesn't matter that
20 there was no subdivision ordinance; is that what you're
21 saying?
22 A He's saying that here. And I'm saying that,
23 too, I guess.
24 Q No, he's saying that there was no subdivision
25 ordinance.

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1 A Huh?
2 Q What kind of house do you have?
3 A Well, it's a foundation house, three bedrooms,
4 a grand room, an entrance lobby, all ceramic tile.
5 Q Is it a ranch house?
6 A Yeah, it's a ranch. It's all on one floor
7 so that --
8 Q Does it have aluminum siding?
9 A No, it has wooden siding on part of it and
10 cinder block on other parts.
11 Q Okay. What's the next thing you highlighted
12 then?
13 A Well, the other area is 120 and he is saying
14 that I said to him -- I said if I were another resident of
15 the county or the township and I came for a permit for a
16 garage you would give it to him, and that's when I called
17 him a trouble-making yuppie.
18 Q So why did you highlight that?
19 A Well, I think that he's misconstruing -- sure
20 I would give him a permit if he had the correct stuff and if
21 I had been told by the supervisors to give him that.
22 Q Do the supervisors usually have some sort of
23 preapproval process with respect to people coming for
24 building permits?
25 A No.

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1 A Yeah.
2 Q Are you saying that it doesn't matter that
3 there was no subdivision ordinance?
4 A Yeah, I think it does matter. I think it does
5 matter, but he's getting us all confused here and I just
6 thought it was an interesting statement.
7 Q What's the next thing you have highlighted?
8 A I think that's all that I --
9 Q Is there something else there?
10 A Pardon?
11 Q Is that another page there that you have
12 highlighted?
13 A Yes, this is page 31 and --
14 Q What's the first manuscript page?
15 A 118 and I've underlined 7, 8 and 9 because of
16 my misspelled name and I also underlined distrust. He says
17 he has a trailer out in the country and I do not live in a
18 trailer. I have nothing against trailers, I want to make
19 sure I make that clear, but he's in this statement trying to
20 make me look like trailer trash.
21 Q That's what you think?
22 A Pardon?
23 Q That's what you believe?
24 A Yes, that's exactly what I believe.
25 Q What kind of house do you have actually?

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1 Q They leave that to you, right?
2 A Yes.
3 Q What's the next thing you highlighted?
4 A I think that's it.
5 Q Now we need to just go back through quickly
6 through your --
7 A The red --
8 Q -- underlining.
9 A The red marks are all by my wife.
10 Q Oh, they're all by your wife?
11 A Yes, um-hum.
12 Q Well, now, some of them are red and some of
13 are black, right?
14 A Yeah.
15 Q Is there some handwriting of yours in there?
16 A Yeah, and that's -- she has red here and she
17 pointed out how the word effect should have been affect.
18 Q I see. That one bothers me, too, and I always
19 get it wrong.
20 A And there's other comments. She also on
21 page 25 --
22 Q Is that manuscript page 25?
23 A Oh, sorry, yeah. Yeah, page 7 and --
24 Q Is that her circling?
25 A And that's 25, line 6. And, again, she's

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1 doing disparaging remarks about used cars and yards. He's
2 trying to make it look like we live out in the sticks, which
3 we do, but I think he's also making particular kinds of
4 social comments.
5 Q Well, isn't this a reference to the property
6 that he bought? Isn't that just a reference to his own
7 property, that when he bought it there were three or four
8 unused cars in the yards?
9 A It might well be.
10 Q Okay, keep going. What's the next thing you
11 see?
12 A On page 11 and mini page 40 in 17 and 18,
13 again, making a remark about farmers and throwing stuff over
14 hills into gullies, and I think -- I think it says a great
15 deal about him and his social -- the way he looks at people
16 socially.
17 Q Well, isn't this just a reference to him
18 hiring Mr. Wilson and Eagle construction to clean up his
19 property? Isn't that what that is?
20 A Yeah, um-hum.
21 Q He just wanted to remove some stuff thrown
22 over a hill into a gully?
23 A Yes.
24 Q The next thing?
25 A The next one is a misspelling of realtors.

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1 A No, I have no idea.
2 Q Next let's go and see what else you have
3 underlined.
4 A Next on page 22 there are several underlined
5 things about raising his voice at meetings and the
6 confrontation. And that's mini page 84, line 12. And then
7 83, line 7 and 85, line 20, the whole question of the
8 confrontational kind of ...
9 Q Okay. Where you underlined on mini page 83 he
10 had went, that was just a grammatical problem that your wife
11 saw, is that --
12 A Which one, which page?
13 Q It's mini page 83, line 7. Why did you
14 underline that, just a grammatical --
15 A He went -- yeah, right.
16 Q On page 21 you have -- there's a sticky note,
17 it looks like.
18 A Yeah, and I don't know what happened with that
19 -- with that page and what was there.
20 Q Is that your handwriting no?
21 A Pardon?
22 Q Is that your handwriting no where it looks
23 like there was a sticky note?
24 A No, that's not my handwriting. So I don't
25 know how that is, but we did notice it and I'm not sure --

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1 Q Now, what about on manuscript page 55 where
2 you've underlined trying to establish a rapport with some
3 local people?
4 A Well, I don't think he's getting much rapport
5 with the local people.
6 Q Why is that?
7 A Because he's coming in and trying to make his
8 own standards for the area and not listening to the local
9 people. And I think in the end he's going to antagonize the
10 local people and he will never have rapport with them.
11 Q All right.
12 A And on 17, mini page 63, line 7, and it's
13 where he says I'm not an affluent person.
14 Q Right. And you think he's affluent because he
15 bought property?
16 A Yeah.
17 Q Is it a problem that he's affluent?
18 A No, I don't think there's any problem but --
19 Q Okay.
20 A But it would be like saying --
21 Q If he was affluent, I should say. Do you know
22 whether he mortgaged that property that he paid \$350,000 to
23 build?
24 A I have no idea what -- how he --
25 Q You don't know?

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1 so we'd have to go back to the original.
2 Q So that's manuscript page 80 and 81, right?
3 A Um-hum.
4 Q And you don't know who put that sticky on
5 there --
6 A No.
7 Q -- and wrote no on it?
8 A Unh-unh.
9 Q Now, going up to page 23 for the next
10 underlines.
11 A To which one? Oh, the other one on page 23, I
12 was just noticing that Ann Wirth's name is misspelled.
13 Q And then just a grammatical thing on --
14 A Yeah.
15 Q Okay, that's fine. What's next? What page
16 are you on?
17 A I'm on page 30, mini page 116, and I'm looking
18 to see -- it's 14, 15, 16, 17 and 18.
19 Q On page 116 because it's highlighted?
20 A Pardon?
21 Q Because it's highlighted?
22 A Yes, uh-huh.
23 Q Did we not do that one before when we were
24 going through the highlighted --
25 A I don't know why I highlighted that. It has

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1 to deal with that whole concept of privies, a privy permit,
2 which it -- there are two ways -- there are two ways only
3 that you can get sewage taken care of in Jackson Township
4 and -- because of DER as well. And one is to have a regular
5 septic system and the other is what's called a holding tank,
6 but a holding tank isn't a privy so -- and that's why I
7 underlined that.

8 Q Because you believe you can't get privies at
9 all --

10 A No, you can't at all.

11 Q -- in Jackson Township?

12 A You're not allowed to put a privy anymore.

13 Q All right. Now, the next page is page 31,
14 right?

15 A Yes, uh-huh.

16 Q Now, you have some --

17 A And that's that whole area when he came out to
18 visit me and so that's why I underlined that.

19 Q And the vita that you wrote there in the left,
20 why did you write that in there?

21 A I don't know. It must have to do with the
22 spelling of my name, and it is Van Dommelen. It would be
23 saying like Dick Dyke rather than Dick Van Dyke.

24 Q Yes, I understand. Now, look where you put --
25 on mini page number 119, which is at -- still at the larger

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1 page 31 in this document.

2 A 119?

3 Q Yes, and you have a star and you underlined
4 sewer at least initially.

5 A Yeah, I don't think I did that, but I'm not
6 sure because I very seldom use pencil like that.
7 Occasionally I do but --

8 Q Is that done in pencil?

9 A Yeah.

10 Q What about up there where there's a star next
11 to -- no, I'm sorry, what about further up that 119 where it
12 says I think it was the 27th and that's underlined?

13 A Um-hum.

14 Q Why did you underline that?

15 A Um-hum.

16 Q Why did you underline that?

17 A I'm not sure why.

18 Q Okay.

19 A And on page 33, mini page 126 and 128, those
20 are typos. And on page 34, mini page 133, that's where the
21 figure comes up, \$365,000 that he paid for that piece of
22 property.

23 Q I understand. Okay, go ahead.

24 A And I can't remember how many -- how much --
25 how many acres that is. I can't remember how many acres

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1 that is. I think that's all. Yeah, that's all.

2 Q That is the most time consuming thing we will
3 do. The rest of this we will be able to go through pretty
4 quickly.

5 I'm going to show you a document that's --
6 it's a July 11, 2000 letter from Larry Newton. Can you just
7 identify that for me? Now, there's -- on the second page of
8 that is the words draft copy written in red there.

9 A Yeah, that's not my writing.

10 Q That's not your handwriting?

11 A No, unh-unh.

12 Q Do you know whose it is?

13 A No, unh-unh.

14 Q Is that a draft copy of the complaint that
15 Larry Newton -- the answer to the complaint that Larry
16 Newton --

17 A Yes, uh-huh.

18 Q -- prepared?

19 A Right, that's what that is.

20 Q And you reviewed that and then made whatever
21 changes. Is that what led to the meeting?

22 A Yes, uh-huh.

23 Q So after Larry Newton sent you that copy, then
24 you guys all got together?

25 A Right, um-hum.

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1 Q And met with Mr. Sherr, I guess?

2 A Yeah, I believe. Didn't we? I think so.

3 Q And the top letter is a July 11th, 2000 letter
4 from Larry Newton to Anthony Sherr, correct?

5 A (No response.)

6 Q Now, I'm going to show you a letter. It's a
7 copy of the May 5, 2000 letter from you to Mr. Corneal and
8 you have written in the margin April 27, 2000 -- or I should
9 ask you, is that your handwriting?

10 A Yes, uh-huh.

11 Q And what's that refer to?

12 A That's the -- I was trying to remember when he
13 came out to the house and that's the -- that's what I put
14 down. That was the day he came out to the house.

15 Q Okay, thank you. I'm going to put that back
16 in the file for you. And then this envelope -- hang on, I
17 didn't even look in there before. That's just the original
18 letter in the envelope.

19 So now the envelope that's in this -- in your
20 original file has a May 6, 2000 postmark, correct, and
21 that's the letter that --

22 A Um-hum.

23 Q The envelope that the May 5th letter --

24 MR. SHERR: You have to answer yes or --

25 excuse me, I'm sorry. You have to answer yes or no. You're

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1 saying other things other than yes or no.
 2 BY MS. MONTGOMERY:
 3 Q Instead of saying um-hum, you have to say yes
 4 or no for the court reporter.
 5 A Yes.
 6 Q So that's the letter that the May -- the
 7 envelope --
 8 A Yes.
 9 Q So you received it on May 6th, right?
 10 A Yes.
 11 MR. SHERR: And that's because she can't take
 12 down um-hum.
 13 BY MS. MONTGOMERY:
 14 Q Now, I'll show you another letter that was in
 15 your -- another copy of the May 5th letter from David to you
 16 where you have an X next to Friday, April 28. Can you tell
 17 me why you have that X there? It makes a reference to a
 18 meeting.
 19 A Yes, and he apparently put the wrong date down
 20 and so then I put the correct date down.
 21 Q You said he came to your house on April
 22 27th --
 23 A No, no, that's --
 24 Q He's making reference to the date the
 25 supervisors were going to meet.

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1 A Let me look at that again. Let me make sure I
 2 -- yes, I see what you're saying. Yeah, that -- he came to
 3 our house on April 27th and then he thought there was going
 4 to be a meeting on the 28th.
 5 Q And why did you put that X down there?
 6 A I don't know why I put it down.
 7 Q Just checking dates or something?
 8 A Yeah.
 9 (Discussion held off the record.)
 10 BY MS. MONTGOMERY:
 11 Q I'm going to show you a document where you
 12 have road ordinance, I guess, and clipped to it is a piece
 13 of white notepad paper and some numbers.
 14 A Oh, that's -- this is nothing more than an
 15 average of what I make a year being -- my wife figured up
 16 how much I make for each year and that's about -- between
 17 400 -- three to \$400 a year.
 18 Q For your work as the building permit officer?
 19 A Yeah.
 20 Q And I'm just going to ask you to look -- I may
 21 ask you questions about this later, but this subdivision and
 22 land development ordinance that's in your file --
 23 A Yes, uh-huh.
 24 Q -- is that your personal copy of that?
 25 A Yes, uh-huh.

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1 Q When did you get that?
 2 A I don't recall and I have not really read it
 3 with any depth yet.
 4 Q Did you get it after the lawsuit was
 5 instituted?
 6 A Yes, uh-huh.
 7 Q What about this other ordinance in your files?
 8 A Yeah, that's the ordinance, the township
 9 ordinance, and that we're going to start thinking about
 10 rewriting it and redoing it.
 11 Q The building ordinance you mean?
 12 A Yeah, the building ordinance.
 13 Q Is this the current building ordinance?
 14 A Yes, uh-huh.
 15 Q It's the document that has the table of
 16 contents, general provisions --
 17 A Yeah.
 18 Q -- is the first page of it, right?
 19 A Yes, it's the current one.
 20 Q So this is the current in effect building
 21 ordinance?
 22 A Yes, um-hum.
 23 MS. MONTGOMERY: We'll break for lunch. I
 24 probably have -- I may have an hour for you when we come
 25 back.

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1 (Discussion held off the record.)
 2 (Luncheon recess taken at 1:13 p.m. until
 3 2:26 p.m.)
 4 BY MS. MONTGOMERY:
 5 Q Mr. Van Dommelen, we're back on the record and
 6 you're still under oath. I'm going to show you a document
 7 that we're going to mark as Van Dommelen Exhibit 6 and I'd
 8 ask you to look at it for me.
 9 (Application for building permit produced and
 10 marked as Van Dommelen Exhibit No. 6.)
 11 BY MS. MONTGOMERY:
 12 Q Mr. Van Dommelen, go ahead and look at that
 13 document just so you familiarize yourself with it, okay?
 14 A Um-hum.
 15 Q And I'm going to ask you a question about it.
 16 A Um-hum.
 17 Q Do you recognize the document?
 18 A Pardon?
 19 Q Do you recognize the document?
 20 A Yes, um-hum.
 21 Q Can you identify it for the record.
 22 A Building permit 01-6 from Jackson Township.
 23 Q For what individual?
 24 A For Kevin Boonie.
 25 Q Now, I note that -- that's the standard

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1 application for building permit that's used in Jackson
2 Township; is that correct?
3 **A Pardon?**
4 **Q** Is that the standard application for building
5 permit form --
6 **A Yeah.**
7 **Q** And it's been filled out by Mr. Boonie,
8 correct?
9 **A Um-hum.**
10 **Q** Now, there's a note in the middle of that form
11 that says attach plans or rough draft sketch of the proposed
12 structure.
13 **A What?**
14 **Q** Attach plans or rough draft sketch of the
15 proposed structure.
16 **A Um-hum.**
17 **Q** There aren't any -- there weren't any
18 documents attached to that application. Do you know whether
19 there were when they were given to you? We didn't receive
20 any, is what I'm saying. Do you know whether there were any
21 attached to it when you got it?
22 **A It was probably a small -- a floor plan which**
23 **I might have given back to him. I only keep floor plans**
24 **that seem to have a -- you know, a certain concern, like the**
25 **floodplain issues and -- but a regular floor plan I don't**

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1 **usually keep.**
2 **Q** Is it your testimony then that every building
3 application comes to you with some sort of an attached plan
4 or sketch or something?
5 **A No, not every.**
6 **Q** In what situations don't they come to you with
7 an attached plan or sketch?
8 **A Well, if it's a garage, I don't need to have**
9 **an attached plan for it.**
10 **Q** Why don't you?
11 **A Because we just haven't -- we haven't asked**
12 **for that.**
13 **Q** What about if it's a workshop that's not going
14 to have water, do you need to have an attached plan for
15 that?
16 **A No, we haven't asked for that.**
17 **Q** Do you only ask for an attached plan when it's
18 going to be a house?
19 **A We ask for a plan and look at it, but we don't**
20 **necessarily save them.**
21 **Q** But is the only time you want an attached plan
22 or sketch or something is when it's a house; is that
23 correct?
24 **A A house or -- yeah, I guess mainly a house,**
25 **um-hum.**

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1 **Q** I want to show you another document that we'll
2 mark as Van Dommelen Exhibit 7 and ask you to look at it.
3 (Application for building permit produced and
4 marked as Van Dommelen Exhibit No. 7.)
5 **BY MS. MONTGOMERY:**
6 **Q** Would you just take a look at that application
7 for me.
8 **A Um-hum.**
9 Do you recognize it?
10 **A Yes.**
11 **Q** And there's an attachment to that, right?
12 **A Yes, uh-huh.**
13 **Q** What is that attachment?
14 **A That's a sewage disposal system attachment.**
15 **Q** Now, it appears to me that that is an
16 application for Mr. --
17 **A It's from Mr. Henwood.**
18 **Q** Mr. Henwood for a vacation home, right?
19 **A Yes, uh-huh.**
20 **Q** A two-story vacation home?
21 **A Yes, uh-huh.**
22 **Q** Now, there isn't a sketch of the home or
23 anything like that or a sketch of the proposed structure, is
24 there?
25 **A No, I saw a sketch for the home.**

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1 (Interruption.)
2 **MS. MONTGOMERY:** We'll have to stop one
3 second, I'm sorry.
4 (Discussion held off the record.)
5 **BY MS. MONTGOMERY:**
6 **Q** The document that you've been looking at is
7 the Thomas Henwood application, correct?
8 **A Um-hum.**
9 **Q** So you're saying you did see a sketch for
10 that?
11 **A Yes, uh-huh, blueprints.**
12 **Q** That's because it was a vacation home and
13 that's why you wanted that sketch, right?
14 **A Pardon?**
15 **Q** It was because it was a vacation home and
16 that's why you wanted that sketch; is that right?
17 **A Yeah, it was a home and I -- and he brought it**
18 **along, but I don't save those. It would take you rolls and**
19 **rolls and rolls. I don't have space for saving all these**
20 **sketches. So unless it's a sketch -- there's a small sketch**
21 **that fits in my notebook, I don't save rolled up blueprints.**
22 **Q** What was the name on that first -- on the
23 first document, Exhibit 6?
24 **A Boonie.**
25 **Q** So I understand from the Boonie application

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| <p style="text-align: right;">150</p> <p>1 that you granted that --</p> <p>2 A Right.</p> <p>3 Q -- application without seeing any sketch or</p> <p>4 anything else whatsoever, right?</p> <p>5 A No, I saw -- I saw a sketch, but I --</p> <p>6 Q On the Boonie application?</p> <p>7 A Yes, uh-huh.</p> <p>8 Q I thought you said that was true of the</p> <p>9 Henwood --</p> <p>10 A The Henwood.</p> <p>11 Q The Henwood application.</p> <p>12 A Right, um-hum. And I usually also don't --</p> <p>13 Q I guess I'm confused.</p> <p>14 A I usually also don't see sketches of -- called</p> <p>15 double-wides because they're pretty standard.</p> <p>16 Q So you allow double-wide trailers, you mean?</p> <p>17 A Well, double-wide homes.</p> <p>18 Q Are they double-wide -- what do they call</p> <p>19 them, modular homes now or something like that?</p> <p>20 A Yes, uh-huh.</p> <p>21 Q Is that what they're called?</p> <p>22 A Yeah, right.</p> <p>23 Q Like mobile homes?</p> <p>24 A Yeah. Well, they're not on wheels.</p> <p>25 Q I think I know what you mean. They're like</p> | <p style="text-align: right;">152</p> <p>1 A Um-hum.</p> <p>2 Q Did you request any documentation or anything</p> <p>3 in connection with this structure?</p> <p>4 A No.</p> <p>5 Q This is a one-story shed?</p> <p>6 A Yeah, it's a one-story shed.</p> <p>7 Q And what's a shed? Is a shed the same as a</p> <p>8 garage or is it different?</p> <p>9 A No, it's an eight-by-ten foot wall with roof</p> <p>10 and doors.</p> <p>11 Q Storage facility?</p> <p>12 A To store -- storage facility.</p> <p>13 Q This one is 12-by-16, right?</p> <p>14 A Huh?</p> <p>15 Q This one was 12-by-16, right?</p> <p>16 A Yeah. Well, they range in different sizes.</p> <p>17 Q There's no plumbing in it, right?</p> <p>18 A No, unh-unh.</p> <p>19 Q So you just approve it without --</p> <p>20 A Yeah, uh-huh, right.</p> <p>21 Q Without any further documentation?</p> <p>22 A Right.</p> <p>23 (Interruption.)</p> <p>24 (Break taken from 2:28 p.m. until 2:46 p.m.)</p> <p>25 MS. MONTGOMERY: Where were we on the record?</p> |
| <p style="text-align: right;">151</p> <p>1 trailers, right?</p> <p>2 A Your interpretation of the word mobile home</p> <p>3 versus double-wide versus trailer.</p> <p>4 Q So you don't require a sketch of those</p> <p>5 either --</p> <p>6 A No.</p> <p>7 Q -- because they're standardized?</p> <p>8 A No, unh-unh.</p> <p>9 Q So why did you have -- why did you keep the</p> <p>10 permit for the sewage disposal system attached to the</p> <p>11 Henwood application?</p> <p>12 A I do that sometimes. I'm not consistent, I'll</p> <p>13 be very frank with you. If there is something -- I -- I</p> <p>14 don't keep most of the sewage disposal things. They just go</p> <p>15 back with the person. They show me the permit, give me the</p> <p>16 number and -- and then after we approve everything they're</p> <p>17 on their way.</p> <p>18 Q So let's look then at -- Van Dommelen Exhibit</p> <p>19 8 we'll mark this, an application for a building permit from</p> <p>20 William Foster.</p> <p>21 (Application for building permit produced and</p> <p>22 marked as Van Dommelen Exhibit No. 8.)</p> <p>23 BY MS. MONTGOMERY:</p> <p>24 Q Now, this is dated July 2000, right, July 6,</p> <p>25 2000? And you granted this building application, right?</p> | <p style="text-align: right;">153</p> <p>1 Can you read me back the last sentence.</p> <p>2 (Question and answer read.)</p> <p>3 BY MS. MONTGOMERY:</p> <p>4 Q So you just approved this William Foster</p> <p>5 application without any further documentation, correct?</p> <p>6 A Yes, um-hum.</p> <p>7 MS. MONTGOMERY: I think to save time what we</p> <p>8 will do, so Leslie doesn't have to go back through the pile</p> <p>9 of documents a whole bunch more times, we will mark the rest</p> <p>10 of these building applications that we obtained from the</p> <p>11 township files altogether as Van Dommelen Exhibit 9. They</p> <p>12 are Siegler, Debra Kerr and Kyle Anderson, Boring, Rush</p> <p>13 Reid, Younker, Foster and Stout and that's it. These will</p> <p>14 all be Exhibit 9.</p> <p>15 (Applications for building permits produced</p> <p>16 and marked as Van Dommelen Exhibit No. 9.)</p> <p>17 BY MS. MONTGOMERY:</p> <p>18 Q Just take a minute and look through them, Mr.</p> <p>19 Van Dommelen, and I'm just going to ask you a couple</p> <p>20 questions about them.</p> <p>21 (Pause.)</p> <p>22 BY MS. MONTGOMERY:</p> <p>23 Q Now, the first application for building permit</p> <p>24 is Charles Siegler for a mobile home, correct?</p> <p>25 A Um-hum. For a mobile home, um-hum.</p> |

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1 Q And you granted that application, correct?
 2 A Um-hum.
 3 Q Now --
 4 MR. SHERR: Mr. Van Dommelen, let me just
 5 remind you again that you have to say yes or no so that the
 6 court reporter can take it down.
 7 THE WITNESS: Yes.
 8 BY MS. MONTGOMERY:
 9 Q Now, did you go by and look and see what they
 10 were doing on that property or anything, what the Siegler
 11 were doing on that property?
 12 A **This one I didn't, no.**
 13 Q And there was no attached documentation,
 14 right?
 15 A No.
 16 Q How about the Kerr, Kyle Anderson application,
 17 6/15/2000?
 18 A **I have been by that site, yes.**
 19 Q Why did you go by that site?
 20 A **I was curious to see what was going up in that**
 21 **area. It was a development -- it's an area that's**
 22 **developing and I wanted to --**
 23 Q So this is a development?
 24 A Yes, it's a -- called Kenwood Acres.
 25 Q How many lots are in that development, do you

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1 Q Now, going back for a second to the
 2 Anderson-Kerr application, I see it says the application is
 3 June 15th, 2000 but the grant date is June 15, 1999. That
 4 was just you forgot to cross out the 1999 and add 2000,
 5 correct?
 6 A Yeah.
 7 Q That was really granted the same day?
 8 A **Yeah, I discovered that these building permits**
 9 **had to be changed.**
 10 Q And so that was actually granted the same day
 11 that it was applied for, correct --
 12 A **Right, um-hum.**
 13 Q -- at Kerr? The next one is a Norman Keller.
 14 A **Right.**
 15 Q April 30th, 2000, right?
 16 A **Um-hum.**
 17 Q And that was for a double-wide. That's the --
 18 A **Um-hum.**
 19 Q -- modular home, I guess you'd call it?
 20 A **Yes, uh-huh.**
 21 Q Granted the same day as they applied for it,
 22 right?
 23 A **Um-hum.**
 24 Q The next one is April 24, 2000. Now, this was
 25 an application for -- is that Jessie Rush?

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1 know?
 2 A **I can't tell you exactly. I really can't say.**
 3 Q Now, was there documentation attached to this?
 4 A No.
 5 Q There was never any documentation attached to
 6 it?
 7 A **Well, I think she brought a floor plan,**
 8 **um-hum.**
 9 Q Anything else?
 10 A No.
 11 Q And this was for a home, correct?
 12 A **Um-hum. Well, the only thing is a sewage**
 13 **permit, you know, number but ...**
 14 Q And that's right on the application?
 15 A **Yes, that's on the application.**
 16 Q Same thing on the next one for Mark Boring?
 17 A **Um-hum.**
 18 Q This was May 24, 2000, correct, was the
 19 application?
 20 A **Um-hum.**
 21 Q And it was granted the same day, right?
 22 A **No, one was 6/15 and this is 5 --**
 23 Q No, I mean it was granted the same day it was
 24 applied for, correct?
 25 A **Oh, yes, yes.**

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1 A **Yes, uh-huh, Rush. Jessie Rush, III, I think.**
 2 Q So this was just an addition; is that correct?
 3 A **This was just an addition to a bedroom.**
 4 Q When you add a bedroom up in Jackson Township
 5 is there any concern or any attention paid to the septic
 6 permit or sewage permit or anything?
 7 A **Only when they -- when the house is built or a**
 8 **new house is built, then the septic tank has to -- has to**
 9 **fit the number of bedrooms.**
 10 Q What about if you add a bedroom?
 11 A **There's nothing that has ever been a concern.**
 12 Q So nobody asks any questions about --
 13 A No.
 14 Q -- whether this extra bedroom is going to take
 15 you beyond the permissible sewage --
 16 A No.
 17 Q -- permit, right?
 18 A **No, unh-unh.**
 19 Q Okay, thanks. There's another one dated May
 20 4, 2000 for -- oh, I think we did this already. Robert
 21 Weaver.
 22 A **Yes, um-hum.**
 23 Q We already talked about that one. And we have
 24 one for Douglas Reid which is dated April 8, 2000, right?
 25 A **The Douglas Reid one is --**

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| <p style="text-align: right;">158</p> <p>1 MR. SHERR: It's not in the package you gave 2 us. 3 THE WITNESS: That's the one where they had to 4 have the site looked at by the Commonwealth of Pennsylvania 5 and a geological survey in terms of the flood creek in those 6 attachments here. 7 BY MS. MONTGOMERY: 8 Q This is the one you talked about that was 9 destroyed by fire? 10 A Right, um-hum. 11 Q And they wanted to rebuild? 12 A Right. 13 Q Now, I notice that the application for the 14 building permit was filled out on April 8th, right? 15 A Right. 16 Q And it was approved also on April 8th, 17 correct? 18 A Um-hum. 19 Q It says one and a half where it's -- 20 A One-and-a-half story. 21 Q One-and-a-half story home is what you're 22 referring to, correct? 23 A Correct. 24 Q Did anybody raise any concerns about the 25 septic in connection with the building of this house?</p> | <p style="text-align: right;">160</p> <p>1 A I'm going back to check that. I believe 2 that's the -- that's the -- the engineer. 3 Q Why was there an engineering report required 4 with this -- 5 A Because it -- excuse me. Because it was a 6 floodplain. 7 Q And that has to be a Commonwealth or an 8 engineer or -- 9 A Yes, uh-huh, and -- someone who is approved by 10 the Commonwealth. 11 Q Was the structure built at precisely the same 12 place as the prior structure? 13 A Essentially the same place. I think it was 14 moved up one foot to accommodate the floodplain changes. 15 Q The next one is an application dated March 14, 16 2000 from John -- is that Younker? 17 A Younker. 18 Q Y-o-u-n-k-e-r. And it appears that that was 19 applied for March 14, 2000 and granted the same day, 20 correct? 21 A Um-hum. 22 Q This was for a home. Do you recall what was 23 attached to this? 24 A No, I don't. 25 Q Now, we have a March 1, 2000 application from</p> |
| <p style="text-align: right;">159</p> <p>1 A About what? 2 Q The septic in connection with the building of 3 this house. 4 A The septic was already there. 5 Q Did anybody ask whether the septic was going 6 to be for the same number of bedrooms that the initial -- 7 the house that burned down -- 8 A The house was built the same. 9 Q It was built with the same number of bedrooms? 10 A Um-hum. 11 Q Did you ask that question? 12 A Yes, um-hum. And then it was looked at, of 13 course, by the -- the engineers. 14 Q So this is a three bedroom plus a loft, 15 correct? 16 A Um-hum. Yes. 17 Q And you're saying the prior house was also a 18 three bedroom, right? 19 A Um-hum. 20 MR. SHERR: You have to -- 21 THE WITNESS: Yes. 22 BY MS. MONTGOMERY: 23 Q There's a letter from David R. Stiffler 24 attached to this. He's an engineer, I guess, for the 25 Commonwealth?</p> | <p style="text-align: right;">161</p> <p>1 Joseph Foster? 2 A Um-hum. 3 Q For a mobile home -- 4 A Yes. 5 Q -- he calls it. And I see where it says 6 sewage permit number NA. Why is there no -- 7 A Yes, they replaced a former mobile home there 8 and there was a sewage system already in place. 9 Q And you didn't go out and -- you didn't do 10 anything further in connection with the septic or anything 11 like that? 12 A No. 13 Q You didn't check up on this? 14 A Yeah, um-hum. 15 Q And no drawings had to be attached to it, 16 right? No drawings had to be -- 17 A No drawings, no. 18 Q And then we have February 19, 2000 application 19 from Mr. Stout? 20 A Yes. 21 Q And that was for a barn? 22 A A barn. 23 Q Now, does the barn have water in it? 24 A No. 25 Q No water?</p> |

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1 A No, it's a storage barn.
 2 Q It's 48-feet wide by 68-feet long, right?
 3 A Right.
 4 Q So it wasn't a barn used for animals?
 5 A I think it's going to be for hay and
 6 equipment.
 7 Q And so --
 8 A That's what it appears to be anyway.
 9 Q And it appears from here that that application
 10 was granted the same day that it was applied for, right?
 11 A Yes.
 12 Q That permit, I should say.
 13 A Um-hum.
 14 Q No additional --
 15 A No.
 16 Q So can you distinguish then between the
 17 requirements for, on the one hand, a garage or a barn or a
 18 shed, a storage facility of some sort, and an art studio?
 19 What's the difference? Is there any difference under the
 20 building ordinance?
 21 A Well, the art studio is going to have water in
 22 it and --
 23 Q Why do you think the art studio is going to
 24 have water -- an art studio is going to have water in it?
 25 MR. SHERR: Were you finished with your

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1 Q Well, that's not exactly my question. My
 2 question is: Can you distinguish for purposes of building
 3 application requirements between an art studio that doesn't
 4 have water and a garage or a barn or a shed or any workshop
 5 that doesn't have water? Can you distinguish?
 6 A I'll say no.
 7 Q Now I'm going to show you a document -- before
 8 I go to it I'm just going to clarify. Now, you indicated
 9 that your art studio on your property doesn't have water,
 10 right?
 11 A Exactly.
 12 Q So you go to the stream, right?
 13 A Right.
 14 Q Mr. Corneal has a stream on his property, too,
 15 right?
 16 A Okay, then he'd go to the stream and get
 17 water.
 18 Q I want to show you a document that we'll mark
 19 as Van Dommelen Exhibit 10.
 20 (Four-page document produced and marked as Van
 21 Dommelen Exhibit No. 10.)
 22 BY MS. MONTGOMERY:
 23 Q Now, can you identify that document for me,
 24 Mr. Van Dommelen?
 25 A Um-hum, I can.

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1 answer? I think you interrupted him. Were you finished
 2 with your answer?
 3 THE WITNESS: Well, I think an art studio in
 4 general usually uses water of some kind for turpentine,
 5 watercolors, unless it's a sculpture studio.
 6 BY MS. MONTGOMERY:
 7 Q But you didn't know Mr. Corneal was an artist,
 8 right, when he asked you for his permit for a garage with
 9 studio overhead?
 10 A No.
 11 Q You didn't know he was an artist?
 12 A No.
 13 Q You didn't really know it was an art studio,
 14 right?
 15 A He told me that it was going to be a garage
 16 with an art studio.
 17 Q Overhead, okay. Well, once again, I'm just
 18 going to say if the art studio doesn't have water and he
 19 represents to you that it doesn't have water, can you then
 20 distinguish between it and a barn or a shed or a garage or
 21 anything else that doesn't have water?
 22 A Well, I think so.
 23 Q Well, how do you distinguish? What are you
 24 distinguishing?
 25 A Well, by looks and by -- a shed is a shed.

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1 Q And what is it?
 2 A It's a permit analysis that I'm asked to
 3 submit at the end of each year.
 4 Q And --
 5 A To determine what kind of structures were
 6 built in the township.
 7 Q So it indicates that in 1995 you issued
 8 building permits for seven houses?
 9 A Um-hum. Yes.
 10 Q And then right down the list, right?
 11 A Exactly.
 12 Q For a total of 33 permits?
 13 A Right.
 14 Q In 1996 you issued permits for four houses,
 15 correct?
 16 A Yes.
 17 Q And didn't deny any applications, correct?
 18 A Not for those, no.
 19 Q And then right down the list, mobile homes,
 20 camps, decks, carports, outbuildings, alterations, okay. In
 21 1998 you issued permits for six houses?
 22 A Yes.
 23 Q Seven outbuildings, right?
 24 A Yes.
 25 Q You didn't deny any?

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1 A No.
 2 Q In 1999 you issued permits for six houses?
 3 A Yes.
 4 Q And four outbuildings and didn't deny any,
 5 correct?
 6 A No.
 7 Q Now, I don't see for 2000. Do you know how
 8 many permits you issued in 2000?
 9 A No, I can't remember. I know I turned that
 10 into Ann but -- and it should have been in my book.
 11 Q Okay. Well, maybe --
 12 A Because I'm sure I turned it in after the
 13 first of the year.
 14 Q Well, was it about the same, like somewhere
 15 between four and seven houses?
 16 A Yes, it would be a similar amount, yeah. It
 17 -- as you can see, it varies very little in terms of how
 18 many permits and how many houses and -- it seems to be
 19 fairly stable in terms of what's built.
 20 Q So if you issued permits for -- it looks like
 21 between four and seven houses between 1995 and 1998 --
 22 A Yes.
 23 Q -- then say the most you issued for 2000 was
 24 seven houses as well?
 25 A It would be a similar amount.

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1 Q And that means you got in each of those years
 2 -- for example, in 1995 you got applications for seven
 3 houses, right?
 4 A Probably.
 5 Q And granted them all?
 6 A Yes.
 7 Q Whereas in 2000 you got applications for say
 8 eight houses and denied one, right?
 9 A I would assume you're right, um-hum.
 10 Q And that would be Mr. Corneal's --
 11 A Yes.
 12 Q -- that you denied? There wasn't anything
 13 unusual that year about the number of houses that somebody
 14 was trying to build or anybody was trying to build?
 15 A I can't remember. I would have to look at the
 16 form.
 17 Q Is there anything unusual about the number of
 18 out --
 19 A No, I would think not.
 20 Q What about outbuildings?
 21 A About what?
 22 Q Outbuildings. About the same?
 23 A No, I think it would be similar.
 24 Q And actually in 1999 you only had a request
 25 for four outbuildings, right?

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1 A Yes.
 2 Q Do you recall what it was for 2000?
 3 A No, I do not recall.
 4 Q Would an art studio without water fall into
 5 the heading of outbuilding?
 6 A Of an outbuilding?
 7 Q Yes.
 8 A I suppose it could.
 9 Q Where else on this list could it possibly fall
 10 in?
 11 A No, I think it would have to go under
 12 outbuildings.
 13 Q Thank you. Based on the number of building
 14 permit applications, would you say that there wasn't any
 15 particular rush or acceleration of building going on in
 16 Jackson Township in that 1999-2000 time frame?
 17 A I would think there was no more acceleration
 18 than other years. I think it was fairly stable.
 19 Q I'm going to show you a document which you
 20 guys have seen dated September 1, 2000. It's a letter from
 21 David Corneal to Miss Wirth and I'll ask you to look at that
 22 for me. Do you recall whether you've ever seen that letter
 23 before, Mr. Van Dommelen?
 24 A I don't recall seeing it before.
 25 Q If you look at the letter, it refers back to

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1 those three building permit applications that Mr. Corneal
 2 sent in.
 3 A Yes.
 4 Q Which you say you never saw anyway, correct?
 5 A I don't believe I did.
 6 Q Now, look at the drawings that he has attached
 7 to this September 1, 2000 letter.
 8 A Yes.
 9 Q Do you see the first page of the drawings has
 10 a sketch of a 40-by-20 foot garage/studio, right?
 11 A Yes.
 12 Q And the second floor is on the second -- no,
 13 sorry, the second floor is on the first page and the first
 14 floor is on the second page, correct?
 15 MR. SHERR: Where does it say garage/studio?
 16 MS. MONTGOMERY: In the cover letter -- well,
 17 it actually says second floor with garage on the drawing.
 18 MR. SHERR: Right, but I thought you said it
 19 said garage/studio. I don't see studio written on the
 20 drawings, is my point.
 21 MS. MONTGOMERY: No, but --
 22 MR. SHERR: I just wanted to clarify.
 23 MS. MONTGOMERY: Okay.
 24 BY MS. MONTGOMERY:
 25 Q So have you ever seen these drawings before?

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1 A Not these.
 2 Q Now, if somebody were --
 3 A **And I personally don't think they're very good**
 4 **drawings.**
 5 Q But you don't even require drawings for a
 6 garage, right?
 7 A **(No response.)**
 8 Q Have you seen some other drawings because you
 9 said not these drawings?
 10 A **I saw an earlier drawing which was a much more**
 11 **complex architectural scale drawing.**
 12 Q Where did you see that?
 13 A **When he came to my house.**
 14 Q So he showed you drawings of his studio then,
 15 his garage and studio?
 16 A **His garage with a studio above it.**
 17 Q He showed you that then?
 18 A **Yes, and now it becomes a garage with an open**
 19 **storage above it.**
 20 Q But in any event, even though you don't think
 21 these are good drawings, you don't even require drawings for
 22 garages so these would be good enough, correct?
 23 A **I did say that, yes.**
 24 MS. MONTGOMERY: We're going to mark this as
 25 Van Dommelen Exhibit 11. That's the September 1, 2000

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1 A **Oh, yes, yes.**
 2 Q -- this deposition with any of the other
 3 defendants?
 4 A **Yes.**
 5 Q Including Mr. Newton, right?
 6 A **Yes.**
 7 MR. SHERR: And just so we're clear, that is
 8 until after the deposition of Mr. Newton and Mr. Weiler.
 9 MS. MONTGOMERY: Until the depositions are
 10 completed, is what the judge said.
 11 THE WITNESS: Yes.
 12 MR. SHERR: Is that what it says? It doesn't
 13 say the deposition of defendants?
 14 MS. MONTGOMERY: Right.
 15 BY MS. MONTGOMERY:
 16 Q Did you discuss with Mr. Newton your refusal
 17 to provide -- other than the letter that he wrote for you
 18 and had you sign to Mr. Corneal, did you ever have
 19 discussions with Mr. Newton about Mr. Corneal and his
 20 attempt to get approvals from the township?
 21 A **No.**
 22 Q You never had a telephone conversation with
 23 him?
 24 A **No, I believe all the discussions went between**
 25 **him and Ann Wirth.**

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1 letter from Mr. Corneal to Ann Wirth with drawings attached.
 2 (Letter dated 9/1/00 with attachments produced
 3 and marked as Van Dommelen Exhibit No. 11.)
 4 BY MS. MONTGOMERY:
 5 Q Well, when you saw his earlier drawings when
 6 he came to your house, did you keep those?
 7 A **No.**
 8 Q You sent them back because he didn't have --
 9 you wouldn't give him an application?
 10 A **Right, and he took them back.**
 11 Q Was there anything objectionable about those
 12 drawings of the garage and studio?
 13 A **As far as the drawings were -- they were**
 14 **professional drawings.**
 15 Q They were sufficient --
 16 A **Yes, uh-huh.**
 17 Q -- to tell you what it was he wanted to do
 18 anyway?
 19 A **Right.**
 20 Q I'm going to ask you one question. Is it your
 21 understanding that you are not to discuss your deposition
 22 with any of the other defendants?
 23 A **Pardon?**
 24 Q Is it your understanding that you are not to
 25 discuss --

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1 Q What makes you think they all went between him
 2 and Ann Wirth?
 3 A **Because I gave -- I gave the letter to Ann**
 4 **Wirth and then she sent it along with building permits to**
 5 **Larry Newton.**
 6 Q You mean the letter that Mr. Corneal wrote to
 7 you?
 8 A **No, no, that I wrote.**
 9 Q Oh, the letter that you wrote?
 10 A **Yes.**
 11 Q You gave it to her?
 12 A **Right.**
 13 Q What about prior to the time -- you know, for
 14 example, when he first came out to your house and asked for
 15 the applications --
 16 A **Right.**
 17 Q -- did you have any occasion to talk to him
 18 then about Mr. Corneal?
 19 A **About Mr. Corneal?**
 20 Q **Yes.**
 21 A **Newton never came out to my house.**
 22 Q But Mr. Corneal came out to your house,
 23 correct?
 24 A **Yes.**
 25 Q At the time that Mr. Corneal came out to your

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1 house and you first refused to give him even an
 2 application --
 3 **A Right.**
 4 **Q** -- did you ever have any discussions with Mr.
 5 Newton about that?
 6 **A No.**
 7 **Q** Do you know if anybody else had any
 8 discussions with Mr. Newton --
 9 **A No, I don't know.**
 10 **Q** Did anybody convey to you anything that Mr.
 11 Newton may have said about that?
 12 **A No.**
 13 **Q** Did anybody convey any advice from Mr. Newton
 14 about that?
 15 **A I don't know.**
 16 **Q** You don't recall?
 17 **A Unh-unh.**
 18 **Q** Do you know whether Mr. Newton was ever
 19 present at any of the meetings between January 2000 and July
 20 2000?
 21 **A Which meetings?**
 22 **Q** The township meetings or the pre-meetings.
 23 **A Yes, but I can't tell you what dates.**
 24 **Q** What makes you think he was present?
 25 **A I've seen him at some of the township meetings**

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1 in the fire hall and I've seen him at one meeting at Ann's
 2 that we went over the -- that one document that -- that
 3 Corneal had accusing us -- I can't think of what it's
 4 called.
 5 **MR. SHERR:** The complaint.
 6 **BY MS. MONTGOMERY:**
 7 **Q** The complaint?
 8 **A Yeah, the complaint.**
 9 **Q** That was after the lawsuit?
 10 **A Yeah, uh-huh.**
 11 **Q** But prior to the lawsuit do you recall also
 12 seeing him at township meetings?
 13 **A That's the only time I ever saw him.**
 14 **Q** The only time you ever saw him was when you
 15 were at Ann's you mean?
 16 **A Newton. Yeah, the only time I ever saw him**
 17 **was at a township meeting.**
 18 **Q** Oh, I see. And that was prior to the lawsuit?
 19 **A Yes.**
 20 **Q** Do you recall whether at any of those meetings
 21 Mr. Corneal's situation was discussed when Mr. Newton was
 22 there?
 23 **A I don't know. In general -- in general we**
 24 **didn't discuss at the open meetings anything about the**
 25 **Corneal case.**

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1 **Q** Where did you discuss it instead?
 2 **A It finally came up after the article came in**
 3 **the newspaper and some of the citizens asked about it.**
 4 **Q** Oh, then it came up in an open meeting, you're
 5 saying?
 6 **A Yes, it came up in the newspaper. Someone**
 7 **took an article about that into the Daily News and -- we**
 8 **have no idea who it was, but to tell about the fact that he**
 9 **-- Corneal was suing us. And so then, of course, some of**
 10 **the -- the citizens wanted to ask about it and we said as**
 11 **little as possible.**
 12 **Q** Well, let me just ask you one more question
 13 about the letter that Mr. Newton wrote for your signature or
 14 revised for your signature.
 15 **A Revised, I would say.**
 16 **Q** Were you concerned at all that you were sort
 17 of writing stuff down in a letter at somebody else's request
 18 about building permit applications that you'd never seen?
 19 Did that raise any concerns to you?
 20 **A Maybe a little.**
 21 **Q** Like what kind of concerns?
 22 **A Well, my job was being usurped.**
 23 **Q** Did you voice that to the supervisors at all?
 24 **A I don't believe so.**
 25 **Q** Why not?

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1 **A I can't answer that.**
 2 **Q** But was that the only situation that you can
 3 think of when your job was being usurped? Is that the
 4 only --
 5 **A Yes, yes, um-hum, right.**
 6 **Q** But you decided you'd go ahead and sign the
 7 letter anyway and put in it what they wanted you to put in
 8 it?
 9 **A Yes, um-hum.**
 10 **Q** Why did you decide to do that? Did you feel
 11 that you had to?
 12 **A No, I just wanted to not shake the boat, I**
 13 **guess.**
 14 **Q** Because you understood that was what the
 15 supervisors wanted you to do?
 16 **A Yes.**
 17 **Q** Did you understand that was what Mr. Newton
 18 wanted you to do as well?
 19 **A Yes.**
 20 **Q** Did anybody ever, you know, sort of tell you
 21 -- did anybody ever tell you that you just needed to do
 22 your job, you know, just the way they told it to you or
 23 anything like that?
 24 **A I'm not sure that anyone did say that in those**
 25 **kind of words.**

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1 Q You didn't have any real like confrontation
 2 about the fact that they were telling you what to do?
 3 A No.
 4 Q Other than all that we have talked about just
 5 now, is there anything that you can think of concerning Mr.
 6 Corneal and his property that you haven't told me as the
 7 building permit officer for Jackson Township?
 8 A I can think of nothing.
 9 Q I'm not sure if I asked you this question, but
 10 just in case, have you talked to Ann Wirth -- not about the
 11 deposition. I'm not talking about the depositions, that's
 12 not it. Have you talked to Ann Wirth about Mr. Corneal's
 13 request for a building permit since the time that you wrote
 14 that letter?
 15 A Well, I'm sure we talked about it because I
 16 was concerned about how the whole thing was going. I'm sure
 17 I said something about what are we going to do about this
 18 and that we need to bring it up to the supervisors and make
 19 a decision. So I certainly wouldn't say I never talked to
 20 her, but it would be a very superficial kind of
 21 conversation.
 22 Q Do you recall her talking anything to you
 23 about it at all?
 24 A No, except one time, as I said earlier, that
 25 she said I wasn't supposed to give a building permit to

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1 Q Do you have a belief as to who was taking the
 2 lead in this position that the township has taken --
 3 A No, I don't think so. I think they were
 4 taking it as a board of supervisors.
 5 Q As a group?
 6 A As a group.
 7 Q All right. Do you know when Mr. Newton became
 8 aware of what was going on between the township supervisors
 9 and Mr. Corneal with respect to his attempt to build?
 10 A No, I don't -- I don't know.
 11 Q Do you know -- I'm going to ask it a little
 12 more generally then. Do you know whether he found out about
 13 all this say in the spring of 2000 as opposed to later?
 14 A I would assume it was in the spring of 2000.
 15 Q Why would you assume that?
 16 A Well, just the date of -- the date of events.
 17 Q Do you know whether or not Mr. Newton knew
 18 about the moratorium at the time that the moratorium went
 19 into place?
 20 A Well, as a township lawyer I would say yes.
 21 Q Has it been your experience that Mr. Newton
 22 generally knows what's going on in the township, in Jackson
 23 Township with the board of supervisors?
 24 A Yes, I think so.
 25 Q Do you know whether any of the defendants

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1 Corneal, as did Tom Wilson.
 2 Q Because that's what Tom Wilson wanted?
 3 A Right.
 4 Q Do you know -- to your knowledge is it
 5 primarily Mr. Wilson who was sort of taking the lead on this
 6 thing with Mr. Corneal in his attempt to build on his
 7 property?
 8 A Interesting question. I'm not sure I would
 9 want to answer that question the way it's phrased because
 10 I'm not really sure.
 11 Q Well, I'm not sure it's a good answer. It's
 12 an okay answer.
 13 A Because I would assume -- no, I don't want to
 14 go there.
 15 Q Well, let me ask you this: Why is it that you
 16 don't feel that you can answer that question?
 17 A Well, because I'm not sure of the answer and
 18 I'm not sure how some of the supervisors and administrators
 19 of the township interact with other people.
 20 Q I see.
 21 A I see them mainly on the first Monday of each
 22 month at the supervisor's meeting and so I don't see their
 23 interaction with other people except at that supervisor's
 24 meeting. And so it would be unfair for me to make a
 25 judgment on one person that that person is doing the lead.

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1 asked him for advice regarding the moratorium?
 2 A No.
 3 Q Did any of the township supervisors ask him
 4 for --
 5 A I don't know.
 6 Q You don't know, okay. Do you know whether or
 7 not he ever told them what they could do with respect to a
 8 moratorium?
 9 A No, I don't know.
 10 Q What about the subdivision ordinance, same
 11 question, do you know whether Mr. Newton told the
 12 supervisors or Miss Wirth or even you what they could do
 13 with respect to the subdivision ordinance?
 14 A He didn't say anything to me. I was very
 15 uninvolved with the whole subdivision ordinance and so I
 16 have no idea who he talked to about it.
 17 Q Now, if Mr. Corneal's property were already
 18 divided such that the existing old farmhouse was on one
 19 parcel and there was nothing on the other parcel, would you
 20 say that if you wanted to build on that other parcel a home
 21 and a garage with art studio that there would be any
 22 subdivision problem?
 23 A If the subdivision is already in place, then I
 24 see no problems. There is a -- this is an example. There
 25 is a piece of property near me where it's already been

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1 subdivided. They're not building anything on it but it is
 2 subdivided in preparation --
 3 Q When was it subdivided, do you know?
 4 A Oh, it has to be at least five to 10 years
 5 ago. It was a long -- a long time ago.
 6 Q So if a parcel of property were divided into
 7 two parcels so you now have -- technically now you have a
 8 subdivision, right, and that were done before the
 9 subdivision ordinance were in place, would that be okay to
 10 build on one even though there was a house on the other
 11 piece?
 12 A I'm not sure. I'm not sure.
 13 Q Let me ask it to you a different way. If you
 14 had a piece of property that was divided such that there was
 15 a separate deed filed --
 16 A Right.
 17 Q -- recorded, when a piece of property had an
 18 existing house on it, the other parcel had nothing on it,
 19 would there be any subdivision problem with building on
 20 that --
 21 A No, not if there's separate deeds. The
 22 property that I live on has two parcels, the one my house is
 23 on and the one my studio is on, but that property is also
 24 claimed Clean and Green so nothing can be built on it or we
 25 have to pay back taxes.

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1 Q So you can't build any other structures on it?
 2 A No.
 3 Q Who claimed it Clean and Green?
 4 A Pardon?
 5 Q Who claimed it Clean and Green?
 6 A Well, we applied for it.
 7 Q And that excuses you from paying taxes?
 8 A Yes.
 9 Q Do you know whether or not Mr. Wilson has any
 10 interest in any part of the Corneal property?
 11 A No, I don't.
 12 MS. MONTGOMERY: I don't think I have any
 13 further questions right now.
 14 MS. YANKANICH: I have some questions for
 15 you.
 16
 17 CROSS-EXAMINATION
 18
 19 BY MS. YANKANICH:
 20 Q If you will turn to Exhibit Number 2 for me,
 21 please.
 22 MR. SHERR: Exhibit Number 2?
 23 MS. YANKANICH: Exhibit Number 2.
 24 MR. SHERR: You're going to have to speak up.
 25 MS. YANKANICH: I'll speak up, right.

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1 (Discussion held off the record.)
 2 BY MS. YANKANICH:
 3 Q You have Exhibit Number 2; is that correct?
 4 A Yes.
 5 MS. MONTGOMERY: What's the date of the
 6 letter?
 7 BY MS. YANKANICH:
 8 Q The date of the letter is October 10, 2000.
 9 It's the letter that you previously testified you drafted --
 10 A Right.
 11 Q -- and that Larry Newton revised --
 12 A Right.
 13 Q -- is that correct? Is that the letter you're
 14 referring to there?
 15 A Yes.
 16 Q My question specifically is I'm not clear what
 17 it is in this letter that you're contending Larry Newton
 18 revised. Can we go through this letter and specifically
 19 point out what language was added.
 20 A I think the part that was added was the --
 21 while you submitted sewage facility planning modules to the
 22 township, the township cannot forward the planning modules
 23 to the Department of Environmental Protection for review
 24 until you meet the requirements of the township's
 25 subdivision and land development.

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1 Q So you're referring to the second sentence in
 2 the second paragraph?
 3 A Right.
 4 Q Is there anything else in the letter that --
 5 A That's, I think, the main part that was
 6 added. A few words might have been changed, but as you
 7 know, nobody can look at a letter and not change words.
 8 Q But the gist of this letter is still
 9 consistent with the draft that you provided to Mr. Newton;
 10 is that correct?
 11 A Yes, I think except for that -- except for
 12 that area.
 13 MS. YANKANICH: I have no further questions.
 14 MS. THORP: Nothing.
 15 MR. SHERR: I have no questions.
 16 MS. MONTGOMERY: I just have one follow-up.
 17
 18 REDIRECT EXAMINATION
 19
 20 BY MS. MONTGOMERY:
 21 Q I'm a little confused now about this October
 22 10, 2000 letter from you --
 23 A Yeah, right.
 24 Q -- to Mr. Corneal. I thought that you had
 25 indicated that you just put in there in the first place what

VAN DOMMELEN, DAVID
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| | |
|---|--|
| <p style="text-align: right;">186</p> <p>1 others told you to put in there, correct?</p> <p>2 A I first wrote it, you know, myself</p> <p>3 completely.</p> <p>4 Q At whose instruction?</p> <p>5 A And then I gave it to Ann Wirth and she then</p> <p>6 gave it to Larry Newton and he made changes that he thought</p> <p>7 should be in there.</p> <p>8 Q But my question --</p> <p>9 A I think that was correct with my previous --</p> <p>10 Q That's what I understood you to say, but when</p> <p>11 you first wrote it, at whose instruction were you writing</p> <p>12 it?</p> <p>13 A I guess I would have to answer the board of</p> <p>14 supervisors.</p> <p>15 Q Because you hadn't seen the applications,</p> <p>16 right?</p> <p>17 A Yeah.</p> <p>18 Q So they just told you to write this letter and</p> <p>19 deny it?</p> <p>20 A Right.</p> <p>21 Q Did Mr. Newton tell you to write the letter?</p> <p>22 A See, that I do not remember.</p> <p>23 Q But somebody other than yourself --</p> <p>24 A Yeah.</p> <p>25 Q -- came up with the idea that you needed to</p> | <p style="text-align: right;">188</p> <p>1</p> <p>2 COUNTY OF DAUPHIN : : SS</p> <p>3 COMMONWEALTH OF PENNSYLVANIA : I, Teresa K. Bear, Reporter-Notary Public, 4 authorized to administer oaths within and for the 5 Commonwealth of Pennsylvania and take depositions in the 6 trial of causes, do hereby certify that the foregoing is the 7 testimony of DAVID VAN DOMMELEN.</p> <p>8 I further certify that before the taking of 9 said deposition, the witness was duly sworn; that the 10 questions and answers were taken down stenographically by 11 the said Teresa K. Bear, a Reporter-Notary Public, approved 12 and agreed to, and afterwards reduced to typewriting under 13 the direction of the said Reporter.</p> <p>14 I further certify that the proceedings and 15 evidence are contained fully and accurately to the best of 16 my ability in the notes taken by me on the within 17 deposition, and that this copy is a correct transcript of 18 the same.</p> <p>19 In testimony whereof, I have hereunto 20 subscribed my hand this 18th day of June, 2001. 21 22 23</p> <p>24 _____ Teresa K. Bear, Reporter Notary Public My commission expires 25 on April 13, 2003</p> |
| <p style="text-align: right;">187</p> <p>1 write this letter?</p> <p>2 A Right.</p> <p>3 MS. MONTGOMERY: That's it.</p> <p>4 MS. YANKANICH: Nothing further.</p> <p>5 (The deposition was concluded at 3:32 p.m.)</p> <p>6</p> <p>7</p> <p>8</p> <p>9</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | |

PARKS, BARRY
05/16/01

Exhibit 6
CORNEAL VS
JACKSON TOWNSHIP

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 VS : NO. 1:CV-00-1192
7 JACKSON TOWNSHIP, HUNTINGDON :
8 COUNTY, PENNSYLVANIA; W. :
9 THOMAS WILSON, individually :
10 and in his official capacity :
11 as Supervisor of Jackson :
12 Township; MICHAEL YODER, :
13 individually and in his :
14 official capacity as :
15 Supervisor of Jackson :
16 Township; RALPH WEILER, :
17 individually and in his :
18 official capacity as :
19 Supervisor of Jackson :
20 Township; BARRY PARKS, :
21 individually and in his :
22 official capacity as Sewage :
23 Enforcement Officer of :
24 Jackson Township; DAVID :
25 VAN DOMMELEN, individually :
26 and in his official capacity :
27 as Building Permit Officer; :
28 ANN L. WIRTH, individually :
29 and in her official capacity :
30 as Secretary of Jackson :
31 Township; and LARRY NEWTON, :
32 individually and in his :
33 official capacity as :
34 Solicitor to Jackson :
35 Township, :
36 DEFENDANTS :
37 DEPOSITION OF: BARRY PARKS
38 TAKEN BY: PLAINTIFFS
39 BEFORE: TERESA K. BEAR, REPORTER
40 NOTARY PUBLIC
41 DATE: MAY 16, 2001, 11:12 A.M.
42 PLACE: ECKERT SEAMANS
43 213 MARKET STREET
44 HARRISBURG, PENNSYLVANIA

PARKS, BARRY
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CORNEAL VS
JACKSON TOWNSHIP

2

1 APPEARANCES:
 2 ECKERT SEAMANS
 3 BY: BRIDGET E. MONTGOMERY, ESQUIRE
 4 LESLIE A. MALADY, ESQUIRE
 5 FOR - PLAINTIFFS
 6 MAYERS, MENNIES & SHERR, LLP
 7 BY: ANTHONY R. SHERR, ESQUIRE
 8
 9 FOR - ALL DEFENDANTS EXCEPT NEWTON
 10
 11 THOMAS, THOMAS & HAFFER, LLP
 12 BY: MICHELE J. THORP, ESQUIRE
 13 FOR - DEFENDANT - RALPH WEILER
 14 METTE, EVANS & WOODSIDE
 15 BY: JENNIFER YANKANICH, ESQUIRE
 16
 17 FOR - DEFENDANT - LARRY NEWTON
 18
 19 ALSO PRESENT:
 20
 21 DAVID B. CORNEAL
 22
 23
 24
 25

4

1 MR. SHERR: No stipulations. We'd like to
 2 read and sign. I'd also like to state for the record that I
 3 have this morning given an additional document which is
 4 responsive to the request for production of documents which
 5 is entitled subdivisions reviewed by HCPC which is the
 6 Huntingdon County Planning Commission. We are informed that
 7 these are all the subdivisions that have been reviewed by
 8 the county planning commission since 1982 and would indicate
 9 all of those plans which were -- subdivision was appropriate
 10 since 1982 in Jackson Township.
 11 I'd also state that we received a notice of
 12 deposition of corporate designee and the designation therein
 13 is for an individual or individuals who has or have
 14 knowledge or information about the matters relating to the
 15 defense of the claims in this lawsuit. We would first note
 16 that --
 17 MS. MONTGOMERY: Stop right there --
 18 MR. SHERR: -- the notice does not --
 19 MS. MONTGOMERY: -- before I get the court back
 20 on the phone.
 21 MR. SHERR: -- describe with reasonable
 22 particularity --
 23 MS. MONTGOMERY: Mr. Sherr, what are you
 24 doing? This is my deposition. This is not a discovery
 25 dispute with the court. I have had it with you. I will

3

| | | |
|----|---------------------------------------|-----------------------|
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| 2 | WITNESS | |
| 3 | FOR PLAINTIFFS | DIRECT CROSS REDIRECT |
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| 9 | PARKS EXHIBIT NO. | PRODUCED AND MARKED |
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| 12 | 3 - Sewage facilities planning module | 122 |
| 13 | 4 - Activity records | 125 |
| 14 | 5 - Letter dated 2/8/00 | 150 |
| 15 | 6 - Letter dated 3/24/00 | 156 |
| 16 | 7 - Order | 168 |

5

1 call the court and ask for sanctions now.
 2 You don't open up my deposition by making a
 3 speech on the record about stuff that has nothing to do with
 4 the deposition that I'm asking for. Now, that's it. Stop.
 5 MR. SHERR: I'm sorry, but --
 6 MS. MONTGOMERY: When those documents come
 7 into play, we will deal with it. Stop.
 8 MR. SHERR: I'm sorry. There's a notice of a
 9 deposition of corporate designee for --
 10 MS. MONTGOMERY: It has nothing -- is Barry
 11 Parks the corporate designee?
 12 MR. SHERR: Well, that's what I'm making a
 13 statement about. Will you just let me finish?
 14 MS. MONTGOMERY: Then tell me off the record
 15 and we'll see if we need it on the record.
 16 MR. SHERR: No, this is on the record.
 17 MS. MONTGOMERY: Off the record now or I'm
 18 stopping the deposition.
 19 MR. SHERR: There's a notice of deposition for
 20 corporate designee --
 21 MS. MONTGOMERY: I'm calling the court right
 22 now.
 23 MR. SHERR: -- for May 16, 2001 at 9:30.
 24 MS. MONTGOMERY: Do you want to do this? Do
 25 you want to do this?

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1 MR. SHERR: And I am stating on the record
 2 that while your notice of deposition does not state with
 3 reasonable particularity the -- it's just a very simple
 4 statement for the record, if you'd just sit down.
 5 MS. MONTGOMERY: It is inappropriate.
 6 MR. SHERR: Why is it inappropriate?
 7 MS. MONTGOMERY: It is completely
 8 inappropriate. What are you doing?
 9 MR. SHERR: Any way, let me finish --
 10 MS. MONTGOMERY: I've never seen anybody
 11 conduct himself quite this way, Mr. Sherr, and you're not
 12 going to get away with it, not here, not with me, not with
 13 my client. Do you got that?
 14 MR. SHERR: Could I finish?
 15 MS. MONTGOMERY: No, you may not finish.
 16 MR. SHERR: You're just going to keep talking
 17 over me?
 18 MS. MONTGOMERY: Yeah, I'm going to keep
 19 talking over you until you stop. That's right, I'm going to
 20 keep talking over you. I haven't even opened the deposition
 21 yet. We haven't even really sworn the witness yet. You
 22 interrupt and start making a speech on the record in my
 23 deposition. I haven't asked a question about that 30(b)(6)
 24 notice. I haven't asked a question about that document.
 25 When the time comes, if you want to say

8

1 around with us anymore. It is now what time, 11:30, while
 2 we were prevented from starting on time through all sorts of
 3 situations. Now, that's enough.
 4 MR. SHERR: All right, look, I'm not taking
 5 any more from you either. You want to depose this witness
 6 now, that's fine. You have a notice for the simultaneous
 7 time as these other people. I'm making a simple statement
 8 for the record. Why does that get you so upset? What is
 9 the problem?
 10 MS. MONTGOMERY: Sit back and --
 11 MR. SHERR: Take your deposition.
 12 MS. MONTGOMERY: -- let me conduct my
 13 deposition.
 14 MR. SHERR: Take your deposition.
 15 MS. MONTGOMERY: That's why it's a problem.
 16 MR. SHERR: Take your deposition and act
 17 appropriately, would you.
 18 MS. MONTGOMERY: If you have an objection to
 19 the 30(b)(6) notice, place it in writing like the rules
 20 require you to do.
 21 MR. SHERR: I wasn't making an objection. I
 22 was making a designation, which I'm entitled to.
 23 MS. MONTGOMERY: So you're designating Barry
 24 Parks as your 30(b)(6) witness?
 25 MR. SHERR: I've made my statement. Now take

7

1 something and it's appropriate, you may say something. Now,
 2 I am going to conduct my deposition and you are going to
 3 stop making some -- whatever you're doing here. Is that
 4 clear? I noticed the deposition, I control the deposition.
 5 This has nothing to do with this deposition, as near as I
 6 can tell. You may tell me right now on the record is Barry
 7 Parks your 30(b)(6) deposition?
 8 MR. SHERR: Are you finished?
 9 MS. MONTGOMERY: You can go ahead.
 10 MR. SHERR: Now I'll finish. You have a
 11 notice of a corporate designee with a very broad subject
 12 matter. The mere statement I was going to make that unless
 13 we can narrow down the subject matter, every deponent is the
 14 corporate designee since they all have knowledge concerning
 15 the subject matter or the defense of our claim. And all I
 16 was stating, appropriately so, before you got so angry and
 17 started conducting yourself in a completely inappropriate
 18 manner --
 19 MS. MONTGOMERY: No.
 20 MR. SHERR: -- was that all of these people for
 21 now are the corporate designee since there is a broad
 22 subject matter, and that's all so -- you know, come on.
 23 MS. MONTGOMERY: Okay. Just so you are on
 24 notice, I'm going to take this transcript and I'm going to
 25 move for sanctions because I'm not going to let you play

9

1 your deposition.
 2 MS. MONTGOMERY: You're designating Barry
 3 Parks as your 30(b)(6) witness as to what?
 4 MR. SHERR: Take your deposition.
 5 MS. MONTGOMERY: As to what?
 6 MR. SHERR: As to information relating to
 7 matters relating to the defense of the claims in this
 8 lawsuit. Take your deposition.
 9 MS. THORP: I believe what you said is that
 10 all the defendants in --
 11 MR. SHERR: I've made my statement. Now take
 12 your deposition.
 13
 14 BARRY PARKS, called as a witness, being sworn,
 15 testified as follows:
 16
 17 DIRECT EXAMINATION
 18
 19 BY MS. MONTGOMERY:
 20 Q Mr. Parks, would you state your name for the
 21 record, please.
 22 A Barry Parks.
 23 Q What's your address?
 24 A 2520 Arbor Bluff Drive.
 25 Q Arbor Bluff Drive what?

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10

1 A **Huntingdon.**
 2 Q Have you ever been deposed before?
 3 A **No.**
 4 Q Well, I'm going to give you a few instructions
 5 so you understand the nature of the deposition process,
 6 which doesn't usually go like this, but I'm going to ask you
 7 a series of questions. I'm looking for facts related to
 8 this lawsuit. If there is anything that you don't
 9 understand about any question that I ask you, you should ask
 10 me to clarify it for you, okay.
 11 I want to be very clear with you. I want you
 12 to understand the question and you are free to ask me for
 13 clarification if it's unclear to you.
 14 If you need to break or anything, if you need
 15 to go to the men's room or something like that, you can do
 16 that. You can't break to confer with counsel, but you can
 17 break to, you know -- for your own comfort.
 18 Are you on any sorts of medications or
 19 anything like that that would prevent you from answering
 20 questions or understanding questions that are put to you?
 21 A **I wouldn't think so.**
 22 Q Now, you need to keep your voice up. The
 23 court reporter has a difficult time taking down the
 24 information if she can't hear you and also we need to wait
 25 for each other to -- you know, you need to wait for me to

11

1 finish my question and I'll wait for you to finish your
 2 answer so we're not interrupting each other because she
 3 can't take down two people at once, as she just indicated,
 4 okay?
 5 A **(Witness nods head affirmatively.)**
 6 Q The other thing is that you need to make sure
 7 that you give verbal responses for the record. You need to
 8 say yes or no, not -- you know, she can't take down shakes
 9 of the head or nods of the head or anything, okay?
 10 A **Okay.**
 11 Q Can you give me just a little information
 12 about your background, please. Give me your educational
 13 background initially.
 14 A **Huntingdon High School.**
 15 Q You graduated from high school?
 16 A **Yeah.**
 17 Q Did you have any post high school education?
 18 A **I went a year to technical school.**
 19 Q What kind of technical school was that?
 20 A **Auto and diesel mechanics.**
 21 Q And diesel mechanics?
 22 A **(Witness nods head affirmatively.)**
 23 Q Have you had any other types of training at
 24 all related to the work that you do, for example?
 25 A **Just the -- I guess it's PSATS now is in**

12

1 **charge --**
 2 MS. MALADY: Pennsylvania State Association of
 3 Township Supervisors.
 4 THE WITNESS: They have continuing ed. for the
 5 sewage officers. Every two years we renew our license and
 6 we have to have a certain amount of credits to do that.
 7 BY MS. MONTGOMERY:
 8 Q Well, that brings us -- as a sewage officer,
 9 you're talking about?
 10 A **Yes.**
 11 Q Sewage enforcement officer. So in order to
 12 become a sewage enforcement officer, what did you have to
 13 do?
 14 A **Pass an exam.**
 15 Q An exam given by the state?
 16 A **Yes.**
 17 Q And when did you do that?
 18 A **Ninety-one.**
 19 Q Did you take any training before sitting for
 20 the exam?
 21 A **Studied the manual.**
 22 Q So there's a manual that the Commonwealth --
 23 A **Yeah.**
 24 Q -- provides to you?
 25 A **And the regulations.**

13

1 Q And then you said every two years you have to
 2 take -- you have to do an update or some sort of --
 3 A **You have to reissue your license and I'd say**
 4 **-- in the last few years, I'd say five, six years, they**
 5 **started a continuing ed.**
 6 Q And so you've taken that, right, and you're
 7 current on your continuing education requirements?
 8 A **Yes.**
 9 Q Do you hold any other licenses or certificates
 10 other than a sewage enforcement officer license?
 11 A **Treatment plant operator.**
 12 Q A waste treatment plant?
 13 A **Yeah.**
 14 Q And that's also with the Commonwealth of
 15 Pennsylvania?
 16 A **Yes.**
 17 Q Did you get that at the same time you got your
 18 sewage enforcement officer license?
 19 A **No.**
 20 Q When did you get that?
 21 A **I would guess '93, '94.**
 22 Q So are you employed by the county or by the
 23 township in that capacity as well with waste treatment
 24 operation?
 25 A **No, I help with the treatment plant in one**

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14

1 township.
2 Q In one township?
3 A **(Witness nods head affirmatively.)**
4 Q Not in Jackson Township?
5 A No.
6 Q So you're currently employed as the sewage
7 enforcement officer for Jackson Township, correct?
8 A **Probably more under contract with -- I'm not**
9 **employed by them.**
10 Q You have a contract with them?
11 A **I'm hired every -- every January when they do**
12 **re --**
13 MR. SHERR: Reorganization.
14 THE WITNESS: Reorganization. They hire
15 people that's going to work with them for that year and I'm
16 hired at that time if they want to have me that year.
17 BY MS. MONTGOMERY:
18 Q Do you do sewage enforcement work for other
19 townships as well?
20 A Yes.
21 Q How many other townships?
22 A **I would say 18.**
23 Q Oh.
24 A **I have 17 other ones.**
25 Q All around Huntingdon County maybe?

15

1 A **Fourteen in Huntingdon, four in Bedford**
2 **County.**
3 Q And plus you do waste treatment plant work
4 for --
5 A **I don't do very -- it's just a very small**
6 **thing in Hesston, a town of 50 houses.**
7 Q So your sewage enforcement officer work I take
8 it for Jackson Township is not a full-time job?
9 A **Not just for Jackson Township, no.**
10 Q But that is your only -- that is your primary
11 or only source of employment, is as a sewage enforcement
12 officer?
13 A Yes.
14 Q For various townships?
15 A Yes.
16 Q So how long have you worked for Jackson
17 Township?
18 A **Ten years.**
19 Q Since you first got your license?
20 A Yes.
21 Q What did you do prior to your sewage
22 enforcement work?
23 A **Excavating contractor.**
24 Q So you've been a sewage enforcement officer
25 for Jackson Township for 10 years. To whom do you report

16

1 there?
2 A **The supervisors.**
3 Q How do you go about reporting to the
4 supervisors, what's the process?
5 A **Well, any work I do has to go through the**
6 **supervisors or -- I take care of the responsibilities for**
7 **the sewage officer job for the supervisors. That's what I'm**
8 **hired to do.**
9 Q But I think my question was how do you go
10 about reporting to them. Do you go to the township meetings
11 to report to them or do you file written reports on a
12 regular basis or what?
13 A **Reporting to them about what I do?**
14 Q Yes, about your work.
15 A **Well, there's some things I don't need to**
16 **contact them about. There's other things that I have to**
17 **have their approval on before they can go through the**
18 **process. It would depend on where they're starting at.**
19 Q I'm going to back up a second just so we have
20 a clear understanding of what I'm trying to ask you. I
21 asked you who do you report to and I believe that you
22 answered -- correct me if I'm wrong, I believe that you
23 answered that you report to the township supervisors?
24 A **It depends on -- some things I report -- I**
25 **have to check with and I send -- more reports I send to DEP.**

17

1 Q I see. When you --
2 A **What you're calling -- what I'm thinking**
3 **you're meaning as reports.**
4 Q Yes, I'm using report more sort of generally.
5 You know, if you are assigned some sort of job, you know, if
6 you're assigned a particular project by Jackson Township by
7 the supervisors, what is the process that you use to report
8 back to them?
9 A **I'm not usually assigned the project.**
10 **Somebody calls usually the secretary and she says -- just**
11 **says you need to contact me.**
12 Q So the public contacts you directly because
13 they want you to come out and --
14 A **After they know I'm the person they need to**
15 **deal with.**
16 Q And then if you want to tell the township in
17 some way what is going on with some person who contacts you,
18 how do you go about keeping the township informed of what's
19 going on? Do you do it orally, do you do it in writing, do
20 you go to the township meetings, a combination of all three?
21 A **Again, it depends on where this is starting at**
22 **and what people want to do. If it's an already existing**
23 **lot, I can do that on my own. If it's something that**
24 **requires planning, I do the work and then the planning**
25 **modules are prepared and then that is presented to the**

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| | |
|---|---|
| <p style="text-align: right;">18</p> <p>1 township.</p> <p>2 Q So give me an example of when there's an</p> <p>3 already existing lot that you can do on your own. Can I</p> <p>4 have an example of that?</p> <p>5 A If it's a parcel of ground that existed before</p> <p>6 1972 and is vacant, no dwellings, I could do testing and</p> <p>7 issue a permit on that, or if it's been a lot subdivided</p> <p>8 from a larger tract since -- and approved since 1972, that's</p> <p>9 an existing lot. I could do testing and approve the permit</p> <p>10 on that.</p> <p>11 Q When you started working with Jackson Township</p> <p>12 was your initial job with them as a sewage enforcement</p> <p>13 officer or did you serve Jackson Township in any other</p> <p>14 capacity prior to that?</p> <p>15 A I started as a sewage officer.</p> <p>16 Q Is there any sort of opportunity for promotion</p> <p>17 or anything like that within or is it just once you're the</p> <p>18 sewage enforcement officer that's it, right?</p> <p>19 A That's it.</p> <p>20 Q Is there just one of you for the township?</p> <p>21 A There's an alternate. In case I have a</p> <p>22 conflict or I couldn't get to it and something needed done,</p> <p>23 there's a backup.</p> <p>24 Q And who is the alternate?</p> <p>25 A Right now it's Theodore Koch.</p> | <p style="text-align: right;">20</p> <p>1 Q Anything else?</p> <p>2 A Yes.</p> <p>3 Q And what was that?</p> <p>4 A Any type of earth moving.</p> <p>5 Q Do you have any other employment right now</p> <p>6 besides your sewage enforcement officer work and your</p> <p>7 occasional -- very occasional waste treatment plant operator</p> <p>8 work?</p> <p>9 A No.</p> <p>10 Q Does Jackson Township have any public sewage</p> <p>11 facilities? Do they have any -- I guess it would be public</p> <p>12 sewer, right?</p> <p>13 A No.</p> <p>14 Q Town sewer or township sewer or anything like</p> <p>15 that?</p> <p>16 A No.</p> <p>17 Q Does the township have a set of regulations or</p> <p>18 anything like that that tell you exactly what you're</p> <p>19 supposed to do with respect to your sewage enforcement</p> <p>20 officer work?</p> <p>21 A There's statewide regulations.</p> <p>22 Q So they don't have anything in addition to</p> <p>23 that?</p> <p>24 A Not as far as sewage.</p> <p>25 Q Do they have any manual or any sort of job</p> |
| <p style="text-align: right;">19</p> <p>1 THE REPORTER: Could you spell that.</p> <p>2 THE WITNESS: It's on the subdivision here.</p> <p>3 His dad did a subdivision in '91. K-o-c-h.</p> <p>4 BY MS. MONTGOMERY:</p> <p>5 Q So if somebody from the public calls you and</p> <p>6 you can't do it, then they're referred to Mr. Koch, is</p> <p>7 that --</p> <p>8 A Yes.</p> <p>9 Q You mentioned a couple minutes ago that you</p> <p>10 had done excavation work prior to being licensed as a sewage</p> <p>11 enforcement officer.</p> <p>12 A Yes.</p> <p>13 Q Did you work for yourself?</p> <p>14 A Yes.</p> <p>15 Q Did you work at any time for anybody else as a</p> <p>16 -- in the excavation business?</p> <p>17 A No.</p> <p>18 Q When you worked for yourself, did you have</p> <p>19 employees?</p> <p>20 A No.</p> <p>21 Q You didn't have anybody else working with you?</p> <p>22 A (Witness shook his head negatively.)</p> <p>23 Q Do you do excavation work in connection with</p> <p>24 sewage work?</p> <p>25 A Yes.</p> | <p style="text-align: right;">21</p> <p>1 description or anything like that for you?</p> <p>2 A It's all state regulation.</p> <p>3 Q Are you under any sort of a written contract</p> <p>4 with them?</p> <p>5 A No.</p> <p>6 Q You just go to the -- you said in January of</p> <p>7 every year the township supervisor's vote as to whether or</p> <p>8 not you're going to be the officer; is that correct?</p> <p>9 A Yes.</p> <p>10 Q Do you get a letter of appointment or</p> <p>11 something like that, you know, a letter appointing you?</p> <p>12 A I'd probably get a notice that I didn't if I</p> <p>13 didn't, but I don't recall ever getting a letter.</p> <p>14 Q Do they send you any -- does the township send</p> <p>15 you any materials, any sort of written materials, whether</p> <p>16 they're from the state or from any other source? Does the</p> <p>17 township -- has the township ever given you any sort of, you</p> <p>18 know, job description type materials or regulations or</p> <p>19 anything like that?</p> <p>20 A That's all Chapter 71, 72, 73 of the sewage</p> <p>21 code.</p> <p>22 Q Which you as a licensed sewage enforcement</p> <p>23 officer have in your possession anyway; is that correct?</p> <p>24 A Yes.</p> <p>25 Q In your capacity as the sewage enforcement</p> |

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1 officer for Jackson Township are you required or your
 2 alternate -- or is your alternate required to inspect every
 3 piece of property on which there's going to be construction
 4 for on-lot -- for an on-lot system?
 5 **A If it -- almost always, yeah.**
 6 **Q Are there exceptions to that?**
 7 **A If there's -- the only thing I can think of is**
 8 **a replacement dwelling. If Mr. Corneal's farmhouse burnt**
 9 **down and he wanted to rebuild within a year the same number**
 10 **of bedroom house, he could do that without a permit.**
 11 **Q Okay.**
 12 **A Same number of bedrooms within a year and**
 13 **there's not an ongoing investigation about a malfunctioning**
 14 **system.**
 15 **Q So I suppose through his building permit**
 16 **application it would be determined that he was looking to**
 17 **build a house with the same -- or a dwelling with the same**
 18 **number of bedrooms; is that correct? That's how you would**
 19 **track this sort of information or this --**
 20 **A If he was replacing a dwelling, yeah.**
 21 **Q Let's talk a minute about -- you spoke a**
 22 **moment ago about inspecting properties on which a building**
 23 **is to be constructed for purposes of an on-lot system. Can**
 24 **you just tell me, you know, what that inspection process**
 25 **entails, what do you do? How do you go about that process?**

23

1 **A What stage are we? Is this a brand new vacant**
 2 **lot?**
 3 **Q Yes, just a brand new -- a new property that**
 4 **has no building on it, no septic system on it of any sort.**
 5 **A Assuming it's an approved lot?**
 6 **Q An approved building lot.**
 7 **A It's a DEP approved lot or a prior '72 lot?**
 8 **If the people contact me, I inform them that the first thing**
 9 **we need to do is have a backhoe there to do soil probes,**
 10 **assuming that this hasn't been done prior, you know.**
 11 **Q To do soil probes, is that what you said?**
 12 **A Yes.**
 13 **Q Okay, go ahead. And then what?**
 14 **A We -- I meet with the backhoe person. The**
 15 **owner can be there if they want to and we look for suitable**
 16 **soil to filter sewage before it gets into the water table.**
 17 **Q So you do that with the backhoe person? Is**
 18 **anybody else involved in that?**
 19 **A That's all that needs to be there.**
 20 **Q Sometimes there are others involved in it?**
 21 **A If somebody wants to be there.**
 22 **Q You mean like an architect or whatever, a**
 23 **building supervisor or something like that?**
 24 **A If the client -- if the property owner would**
 25 **like to have somebody there.**

24

1 **Q So is that -- what you're referring to right**
 2 **now, is that what you would call test pits, you're looking**
 3 **for test pits?**
 4 **A Yes.**
 5 **Q So you try to find an area that's suitable for**
 6 **test pits, correct? And that's the same as soil probes; is**
 7 **that correct?**
 8 **A Test pits and soil probes are the same thing,**
 9 **yes.**
 10 **Q That's what I wanted to know. And then what**
 11 **happens? Once you find suitable areas for test pits, what**
 12 **do you do?**
 13 **A Well, there's a two-step procedure. The first**
 14 **time we're looking for filter for sewage, filter depth.**
 15 **Then we want to know how well that area takes water so we**
 16 **dig small holes by hand and then do a perc test which means**
 17 **how good does that area take water.**
 18 **Q Let's back up one second. First you look for**
 19 **an area that's suitable to filter sewage, is that what you**
 20 **said?**
 21 **A Yeah.**
 22 **Q So you're looking for a particular type of**
 23 **soil, correct?**
 24 **A Yeah, and a depth.**
 25 **Q And the depth of the soil?**

25

1 **A (Witness nods head affirmatively.)**
 2 **Q And you're looking for it to contain certain**
 3 **components or -- or what are you looking for, is a better**
 4 **way to ask that question?**
 5 **A Something that's suitable filter.**
 6 **Q What tells you that it's going to be a**
 7 **suitable filter?**
 8 **A Well, it doesn't have a limiting zone, which**
 9 **is generally the sign of a high water table, or open**
 10 **channeled rock, which means the sewage can go through that**
 11 **and not get treated before it gets into the water table; or**
 12 **if it's a high water table, the water's already there some**
 13 **times of the year.**
 14 **Q Okay, you answered my question. So maybe that**
 15 **sort of answers the second part of the question. I thought**
 16 **you had sort of divided it into two. You said you look**
 17 **for --**
 18 **A There's two limiting zones.**
 19 **Q And you said one of them is the water table.**
 20 **A Open channeled rock and sign of a high water**
 21 **table.**
 22 **Q So after you do that, what happens?**
 23 **A Is this an existing lot? I fill out soil**
 24 **sheets for that lot. If it is a vacant, ready to build lot,**
 25 **I send that to the person that wants to build with an**

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1 application. They get a design done, fill out the
 2 application, return it to me and I can issue them a permit.
 3 Q The application is what, you mean the sewer --
 4 the sewage permit application?
 5 A Yes.
 6 Q Is that what you're talking about? You send
 7 them the application after you go out and do the perc test?
 8 A Yes.
 9 Q Now, you said they design it. Do you mean
 10 sewer modules, is that what you're referring to?
 11 A No, design.
 12 Q They design the --
 13 A In an existing lot you don't need a sewage
 14 module.
 15 Q How are you using the term existing lot?
 16 A A lot that was prior to '72. Like I explained
 17 a while ago, prior to '72 that is vacant or one that has
 18 been in a subdivision and is vacant.
 19 Q And what's the alternative to an existing lot,
 20 what's the other type of lot?
 21 A A proposed lot.
 22 Q When you say lot, you're not talking about a
 23 building lot, you're talking about a --
 24 A A building lot.
 25 Q You are talking about a building lot, okay.

27

1 A Whether it's one acre or a hundred acres.
 2 Q How did you classify Mr. Corneal's property
 3 that's the subject of this litigation?
 4 A It isn't a vacant lot. It has a dwelling on
 5 it and at this point it is a lot. Until it is -- has an
 6 approved sewage module, it is a lot. So it already has a
 7 dwelling on it. To do any more building, we need to have a
 8 sewage module approved by DEP and the township.
 9 Q Let's go back now again to -- you talked about
 10 after you do the test pits and such and if you find
 11 appropriate test pits then you send them to the member of
 12 the public or, you know, the person who seeks to build an
 13 application, right?
 14 A If it's a vacant lot.
 15 Q If it's a vacant lot. If it's not a vacant
 16 lot, what do you do?
 17 A Then somebody has to prepare a sewage module.
 18 If it's going to be subdivided, I mean actually make two
 19 different deeds for it, a surveyor must do that. If you're
 20 doing a second dwelling on that lot, DEP calls that an
 21 equivalent subdivision. It still needs a sewage module,
 22 still needs township approval and still needs DEP approval.
 23 I need a DEP code number before I can send an application
 24 and issue a permit.
 25 Q So I'm a little confused and you'll just have

28

1 to help me. I don't have a lot of experience with sewage
 2 enforcement matters so -- except for the ones I have applied
 3 for which my husband handles. If you can just explain to me
 4 -- you said if it's an existing lot, then you need to get a
 5 septic design. If it's a vacant lot, then you need a sewer
 6 module, correct, somebody has to design a sewer module; is
 7 that correct?
 8 A If it's a vacant lot, meaning a lot before '72
 9 or a DEP approved lot, meaning a vacant piece of ground,
 10 once you have a lot vacant, then I can issue a -- I'll send
 11 you an application with the test results. You take the test
 12 results, give it to a person who can do a design for you.
 13 Q Septic design?
 14 A Yes. When the design comes back with the
 15 completed application, I can issue a permit.
 16 Q So you can issue --
 17 A Assuming that was a DEP approved lot or prior
 18 to '72.
 19 Q And then the alternative if it's not a DEP
 20 approved lot or prior to '72, which together means -- equals
 21 vacant lot, correct?
 22 A Yep.
 23 Q If it's not that, then what is it?
 24 A It's a subdivision.
 25 Q And so then what happens? So you -- backing

29

1 up a second. You can issue a permit for vacant lots,
 2 correct?
 3 A DEP approved or prior to '72.
 4 Q Does it go any further than that? Does it go
 5 any further beyond you? Does it have to go to the township
 6 for second approval or anyone else?
 7 A No.
 8 Q Just you?
 9 A If it's a DEP approved lot, it's already been
 10 approved.
 11 Q And so if DEP approves it, where does the
 12 township come in itself? Do they have anything to say about
 13 it?
 14 A It had to approve it -- it had to do a module
 15 to get it -- send it to DEP before they would approve it.
 16 Q Now I got you. So going -- assuming you don't
 17 have that, then you need to start with the module itself,
 18 right?
 19 A Do the testing, then the module.
 20 Q And then what?
 21 A After the module is approved?
 22 Q Yes.
 23 A Then I can issue permits, depending on what
 24 the module says. If the module comes back and it was
 25 approved for five lots, then we have five buildable approved

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1 lots. If it said equivalent subdivision or second dwelling
2 subdivision and it comes back, then I can issue a sewer
3 permit -- a sewage system in for that second dwelling.
4 Q Who designs the sewer module?
5 A The module, if it is a subdivision, meaning
6 actually dividing it, has to be done by a surveyor. If it's
7 a second equivalent subdivision, second house on the lot, it
8 just needs to be somebody that understands the regulations
9 well enough to do it. It can be a consultant and it can --
10 it can still be a surveyor.
11 Q So you said that you can issue a permit in two
12 situations when there's a sewer module involved; isn't that
13 correct?
14 A I can issue a permit in one --
15 Q In one situation?
16 A In one situation. If it's a prior to '72 lot
17 or if it's a DEP approved lot.
18 Q But in that case you're just going with the
19 septic design. We're now talking about the sewer module. I
20 thought you talked about after the sewage module was done
21 there was a situation in which you could issue a permit?
22 A Then we have a DEP approved lot after --
23 Q If the sewer modules are approved?
24 A Yes.
25 Q That's what I'm trying to get to. The sewer

32

1 Q And that's how you always do it, give them
2 back to the supervisors?
3 A Or I may just send them to -- it depends on
4 whether they want them sent to the county.
5 Q So sometimes you send them to --
6 A And so maybe I give them back to them and they
7 give them to the county or maybe the owner takes them to the
8 county.
9 Q It just depends what the supervisors tell you
10 about what they want?
11 A It kind of depends on what order things are
12 happening, I guess.
13 Q Does Jackson Township have its own planning
14 commission?
15 A No.
16 Q So sometimes you just give it back to the
17 township and do they sometimes just approve it? Does the
18 township -- do the supervisors sometimes just approve it?
19 A Not in recent years.
20 Q When you say recent years, can you be more
21 specific, not in how long?
22 A Five years, something like that.
23 Q In five years. So what did they do instead of
24 just approving it on their own, what did they do?
25 A Send it to the county.

31

1 modules go to you first for review?
2 A Generally.
3 Q And if you approve them, how do you indicate
4 that you've approved them?
5 A I sign them.
6 Q You just sign off on them?
7 A Yep.
8 Q And that means you've approved them. And then
9 what happens?
10 A Then they go to either the -- sometimes
11 they'll go to the planning commission first. Different
12 townships have the option of handling it different, but, you
13 know, on the sewage module I have to sign it. There has to
14 be some indication that the planning commission has looked
15 at -- signed it or looked at it and then the supervisors
16 have to sign it.
17 Q You say sometimes it goes to the planning --
18 you're talking about the planning commission first. You're
19 talking about the Huntingdon County Planning Commission?
20 A Well, some townships have their own planning
21 commission.
22 Q Let's talk about Jackson Township. How do you
23 do it in Jackson Township?
24 A I sign them and give them back to the
25 supervisors.

33

1 Q They send --
2 A The sewage module to the county.
3 Q For the county's approval?
4 A Yes.
5 Q Or disapproval?
6 A Yes.
7 Q Do they approve it -- do they have to approve
8 it before they send it to the county?
9 A No.
10 Q Do they approve it after they send it to the
11 county? Do they have the right of approval?
12 A They have to approve it before it can go to
13 the DEP.
14 Q The supervisors do?
15 A (Witness nods head affirmatively.)
16 Q In Jackson Township now we're talking about.
17 A Um-hum.
18 Q You approve it, you either give it to them or
19 the customer or you, somebody takes it to the county
20 planning commission in every case?
21 A I would say every case.
22 Q In every case?
23 A I'm not really involved -- after I've looked
24 at it, give it back -- I'm not really involved in it until I
25 get a letter from DEP saying it was approved.

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1 Q Once you approve it, you're not really
2 involved in it after that, you say, until --
3 A Not until the -- it goes to the other chains,
4 as it goes to DEP, when I get that letter from DEP saying
5 I'm authorized to issue permits, I'm out of it. I'm not
6 connected with it.

7 Q Well, let me see if we could discuss this a
8 little more. You worked for the township for 10 years, you
9 say?

10 A Yes.

11 Q So at some point did the township approve
12 modules after you did an initial approval without sending it
13 to the Huntingdon County Planning Commission?

14 A Yes.

15 Q Do you know why they changed doing that?

16 A When -- it was about the time Ann Wirth became
17 secretary.

18 Q And did she change it?

19 A The township has the option of -- on a minor
20 subdivision which is less than 10 -- 10 building lots, the
21 township has the option of sending it to the county. The
22 fellow that was secretary before was also one of the
23 supervisors, way back, before I was even involved, and
24 generally they didn't send them to the county. On a major
25 subdivision it's required, but Ann --

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1 Q And then the township sends it to DEP?

2 A Yes.

3 Q For final approval?

4 A For their approval.

5 Q For DEP's approval?

6 A There is some townships that may send it to
7 DEP and in the meantime there will be another little
8 something that needed done and after it comes back they'll
9 give their final approval on it.

10 Q What about Jackson Township?

11 A I'm -- again, I'm a little bit out of that. I
12 just handle the sewage. There's other issues.

13 Q Do you find out typically like when -- when do
14 you find out whether or not the county has approved a sewer
15 module that you've already preapproved?

16 A Some things they copy me on but not always.

17 Q When do you typically find out when the
18 township has -- whether or not the township has approved
19 something that you've preapproved?

20 A Sometimes it might not be until I get a letter
21 from DEP.

22 Q But it won't go to DEP unless they've approved
23 it, right?

24 A Right.

25 Q Unless the township -- Jackson Township has

35

1 Q What?

2 A They just decided to start sending everything
3 to the county.

4 Q When Ann came on board?

5 A It seemed like it was about that time. Again,
6 I'm not in that -- in that little phase. My thing is the
7 same whether the county -- some townships do, some don't.

8 Q But in any event, every sewer module goes
9 through you first, correct? In Jackson Township we're
10 talking about. It goes through you first?

11 A Yeah, or the alternate.

12 Q Or the alternate, correct. Typically, you
13 know, do you have a time line for receiving the sewer
14 module, looking it over and either approving or disapproving
15 it? How long does it typically take you to do that?

16 A I think -- I think it's required -- it's in
17 the regulation. I try to get rid of them in a day or -- in
18 a week or two.

19 Q And then typically -- when they go to the
20 county for approval, okay, they come back to the township
21 from the county, correct?

22 A Yep.

23 Q And then the township has to give approval,
24 correct?

25 A Yes.

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1 approved it, it won't go to DEP?

2 A Unless any township approves it, it won't go
3 to DEP.

4 Q It goes to DEP for approval and then comes
5 back to the township?

6 A The township gets -- sent the letter, I get a
7 copy.

8 Q From DEP?

9 A The landowner would get a copy.

10 Q And then you can go about installing whatever
11 you do and that's the next step?

12 A Then I can issue an application.

13 Q Or a permit -- an application?

14 A An application for a permit.

15 Q So then after they have all those approvals,
16 you issue an application for a permit and then what happens?

17 A Once I have the design and the completed
18 application, I can issue a permit.

19 Q Are you the last say on that permit once it's
20 gone through all these other processes?

21 A In most cases.

22 Q In what situation wouldn't you be the last say
23 on that permit?

24 A Right now I can't think of any, what it would
25 be.

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1 Q Have you ever issued a permit in this sewer
 2 module scenario that's gone all the way through where it's
 3 been disapproved after you've issued a permit? Has that
 4 ever happened?
 5 A **The permit?**
 6 Q Yes. In Jackson Township I'm talking about.
 7 A **I can't recall.**
 8 Q You can't recall that it ever happened; is
 9 that what you mean?
 10 A **Yeah.**
 11 Q You can't recall an instance of it ever
 12 happening?
 13 A **I was trying to think of the time -- if I saw**
 14 **or heard something happened on that property that things**
 15 **were disturbed and I found that out, I wouldn't be able to**
 16 **issue a permit.**
 17 Q But once --
 18 A **But the designer would probably tell me that**
 19 **too.**
 20 Q But once you've issued the permit, really was
 21 my question, can you think of an instance after you've
 22 issued the permit in which the permit was somehow disallowed
 23 or disapproved or -- let me say this, your permit issuance
 24 was overruled in some way? Can you think of an instance
 25 when that occurred?

39

1 A No. There may have been -- see, a copy -- I
 2 make three copies. I keep a copy and give -- send it to the
 3 township, because I've done this, a copy goes to the
 4 property owner, a copy goes to DEP. There could possibly
 5 have been a little glitch in the design that the DEP person
 6 would catch that I missed maybe that -- and I would get a
 7 letter on it saying that this needs changed or something,
 8 but as far as it being totally disapproved, I can't think of
 9 a situation.
 10 Q For Jackson Township approximately how many
 11 sewer modules are you requested to review in a given year?
 12 A I'm -- some years are busier than others.
 13 Total modules are probably around a half a dozen.
 14 Q A year?
 15 A That's average probably.
 16 Q Sometimes more, sometime less?
 17 A (Witness nods head affirmatively.)
 18 Q Do you know how many you were asked to review
 19 in the year 2000?
 20 A No.
 21 Q How about so far this year for Jackson
 22 Township?
 23 A **I can't think of one.**
 24 Q How about for other townships in general, how
 25 many sewer modules have you had to review this year, like

40

1 just -- I'm trying to get a feel for your experience really
 2 right now. So say in 2000 can you think of how many sewer
 3 modules you reviewed altogether for all the townships you
 4 perform this kind of work for?
 5 MR. SHERR: Let me object to the form of the
 6 question in that it's a compound question. You can answer
 7 it.
 8 BY MS. MONTGOMERY:
 9 Q Did you understand the question? Did you
 10 understand --
 11 A **It varies a lot. You know, just like the**
 12 **economy, what's -- when things are -- the economy is booming**
 13 **people are trying to make building lots. A lot of things**
 14 **happen.**
 15 Q Well, I was really asking you for the year
 16 2000, or maybe I didn't make that clear and I apologize.
 17 For the year 2000 can you estimate for me how many sewer
 18 modules that you approved for all the different townships
 19 that you work for?
 20 A **Well, there's -- we actually get into**
 21 **something a little different there. If you're in an area**
 22 **that does not have limestone soils, it is not in a high**
 23 **quality watershed, does not have reports of nitrates in the**
 24 **water, you can request an exemption from doing the module.**
 25 **Half of my -- I'm not figuring -- not exactly, but I'm going**

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1 to say half my townships we can do that in.
 2 You can't in Jackson Township because it's
 3 high quality watershed. So to ask how many modules -- well,
 4 I'm going to say 10, but it could be 25, you know, just,
 5 you know, what's happening. One year a person would do a
 6 major module and the next 10 years he can sell lots without
 7 doing a module. If three people do three modules, there
 8 might be a hundred lots out there and you wouldn't have to
 9 do a module until those hundred lots were sold. So you just
 10 can't say there's so many done a year.
 11 Q Well, I didn't really ask for so many a year.
 12 I was really asking for the year 2000, is what I was trying
 13 to -- are you saying that -- well, no, I'm really asking you
 14 just a straightforward question. If you could estimate for
 15 me the number of modules that you were asked to review in
 16 all the different townships that you worked for during the
 17 year 2000, that's all.
 18 A **Estimate?**
 19 Q Yes, that will do.
 20 A **But some of them was able to do the**
 21 **exemption. Are you saying in townships that they have to do**
 22 **the module?**
 23 Q Yes.
 24 A **Again, 12, 15, I'm going to say.**
 25 Q I think you said for Jackson Township you

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1 reviewed maybe six in the year 2000?
2 A Not last year.
3 Q No?
4 A (Witness shook his head negatively.)
5 Q I thought you said half a dozen for Jackson
6 Township?
7 A I said that was an average.
8 Q An average. You're right, I'm sorry. That's
9 quite right. For the year 2000 do you recall any of the
10 sewer modules -- do you recall any sewer module that you
11 approved initially being disapproved then by the township
12 supervisors?
13 MR. SHERR: Is this specifically for Jackson
14 Township?
15 MS. MONTGOMERY: For Jackson Township.
16 THE WITNESS: You better ask me that again.
17 BY MS. MONTGOMERY:
18 Q For Jackson Township do you recall for the
19 year 2000 for any of the sewer modules that you approved
20 initially, do you recall any of them being rejected by the
21 township or disapproved, if that's the word you use, by the
22 township?
23 A I guess Mr. Corneal's.
24 Q Is that the only one?
25 A There was a couple others on hold from the

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1 moratorium but since then they've been approved.
2 Q Do you recall any of the sewer modules that
3 you approved during the year 2000 being disapproved by the
4 county planning commission as opposed to being disapproved
5 by Jackson Township?
6 A My understanding of the county planning
7 commission on minor subdivisions is advisory only.
8 Q Okay. So do you recall the Huntingdon County
9 Planning Commission advising against approval of any of the
10 sewer modules that you had initially approved during the
11 year 2000 for Jackson Township?
12 A They always find something to comment bad
13 about.
14 Q They do?
15 A It seems like it.
16 Q So they send their comments back to the
17 township and the township can take them or not take them,
18 correct?
19 A That's the way I understand it.
20 Q Can you remember back to 1999, do you recall
21 any of the sewer modules that you initially approved being
22 later disapproved by Jackson Township?
23 A I can't think of one.
24 Q How about 1998?
25 A I can't think of anything.

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1 Q This may be too much to ask, but let's try for
2 the whole 10 year period you've been working with Jackson
3 Township as the sewage enforcement officer. Do you recall
4 any sewer module that you initially approved being
5 disapproved by Jackson Township?
6 A Not that I can recall.
7 Q Let's talk about the testing that you did for
8 the Corneal property, the work that you did on the Corneal
9 property. How did that come about, what was the initial
10 contact?
11 A I think Mr. Corneal called me early July.
12 Q Of?
13 A Ninety-nine.
14 Q Of 1999?
15 A (Witness nods head affirmatively.)
16 Q Had you heard anything about his plans for his
17 property prior to the initial contact that you just spoke
18 about in July of 1999?
19 A Probably when I first talked to him -- I was
20 dealing with his brother in another township and may have
21 had initially thought it was the brother that I was talking
22 to and he bought it but --
23 Q You mean Mr. Corneal's brother?
24 A Yeah.
25 Q You --

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1 A But after a little conversation that was
2 quickly straightened out.
3 Q That it was David Corneal you were talking to?
4 A Not the one I was working with in another
5 township.
6 Q Oh, okay. Now, had you talked to anybody else
7 about Mr. Corneal's property in Jackson Township?
8 A I don't recall of it.
9 Q Not that you recall?
10 A (Witness shook his head negatively.)
11 Q So the first time you discussed this property
12 and Mr. Corneal's plans for it was with Mr. Corneal?
13 A That's the way I remember it, yes.
14 Q Let me ask you this: Before Mr. Corneal
15 bought the property, had you ever had any interaction with
16 anybody or contact with anybody about that property?
17 A No.
18 Q Had there ever been any other request that
19 you're aware of for any permit or application or anything
20 like that in connection with that property in Jackson
21 Township that Mr. Corneal bought?
22 A I remember doing work across the road one day
23 and there was an older fellow there mowing the grass.
24 That's the only thing I ever even saw being done there. I
25 don't remember seeing cars there then, but it's a -- a

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1 little isolated from where I'm usually at.
 2 Q It's an isolated piece of property?
 3 A Not totally, but it's on an old part of the
 4 road that's been replaced by a new part of the road.
 5 Q So Mr. Corneal contacted you about July 1999?
 6 A Yes.
 7 Q And what was the substance of that
 8 conversation, if you recall?
 9 A Now, I talk to -- when I get home tonight, I'm
 10 probably going to have 15 calls on my answering machine that
 11 I'll spend an hour or two returning after I go to a meeting
 12 tonight. So if you figure I talk to a dozen people a day
 13 and it's two years ago, I can't really quote conversations
 14 on the phone.
 15 Q That's okay, you can --
 16 A It was generally he told me what he wanted to
 17 do and I asked him how big a property, how many lots and
 18 then told him the first thing we need to do is meet there
 19 with a backhoe. That's generally what I explain to people,
 20 you know, you're going to be doing a sewage module, your
 21 surveyor will do that, but the place we start is see what's
 22 there for soil.
 23 Q So you bring -- basically you bring an
 24 excavator in, right, with a backhoe; is that what you're
 25 talking about?

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1 A Excavator meaning a contractor?
 2 Q Yes.
 3 A There's a machine called an excavator.
 4 Q Right, an individual who performs excavating
 5 work you bring in.
 6 A Yeah.
 7 Q Who contacts the individual to do the
 8 excavation work?
 9 A It's the property owner's responsibility to
 10 line that up.
 11 Q Do you give names occasionally? Do you tell
 12 -- you know, help people find a local individual involved
 13 in excavation work?
 14 A If I'm asked, I'll give a couple names.
 15 Q Do you recall whether you advised Mr. Corneal
 16 who to call for excavation work?
 17 A I don't recall.
 18 Q You don't recall?
 19 A (Witness shook his head negatively.)
 20 Q Do you know -- do you remember who performed
 21 the excavation work for Mr. Corneal?
 22 A Eagle Excavating.
 23 Q Eagle Excavating?
 24 A Um-hum.
 25 Q And are you familiar -- very familiar with

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1 that company, Eagle Excavating?
 2 A Yeah.
 3 Q Do you work with them often in the course of
 4 your sewage enforcement officer work?
 5 A Yeah.
 6 Q Would you say that you work with them
 7 primarily --
 8 A No.
 9 Q -- in Jackson Township?
 10 A No.
 11 Q There are others who perform excavation work
 12 for you -- or with you really on projects in Jackson
 13 Township?
 14 A They're not -- the other people aren't from
 15 Jackson Township, but there's other people that work in
 16 Jackson Township.
 17 Q Thanks. Well, tell me about Eagle Excavating.
 18 What is that company? Who works in that company?
 19 A It's Tom Wilson and his son, I think, but I'm
 20 -- I'm just -- those are the contact guys. I --
 21 Q Do you know whether anybody else works for
 22 them?
 23 A They have other people, yeah.
 24 Q They have a crew?
 25 A Yeah.

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1 Q Do you recall whether Mr. Corneal asked you
 2 who he might call to help him with the excavating work?
 3 A I don't recall that.
 4 Q So the first time you talked to Mr. Corneal
 5 was by telephone, right?
 6 A The way I remember it, yeah.
 7 Q And then you agreed to meet in person at the
 8 property with the excavator?
 9 A Yeah.
 10 Q And when did that happen, do you recall,
 11 around the same time frame?
 12 A It's on the soil sheets there. 7/21.
 13 Q Ninety-nine you're talking about?
 14 A (Witness nods head affirmatively.)
 15 MS. THORP: Is that yes?
 16 THE WITNESS: Yes.
 17 BY MS. MONTGOMERY:
 18 Q I'm sorry, you need to say yes or no.
 19 A Yes.
 20 Q So you met out at Mr. Corneal's property with
 21 somebody from Eagle Excavating?
 22 A Yes.
 23 Q Do you recall who that was that showed up for
 24 Eagle Excavating?
 25 A I think it was a nephew.

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1 Q A nephew of whom?
 2 A Tom Wilson's.
 3 Q He works for him at Eagle Excavating?
 4 A (Witness nods head affirmatively.)
 5 Q What's his name?
 6 A But it could have been the son.
 7 Q What's the nephew's name?
 8 A I don't know. I don't take down operator's
 9 names. I -- when I see his face, I know his name, but I
 10 can't think of it right off.
 11 Q You were saying that you could recall his face
 12 but not his name, correct?
 13 A It's the nephew who works for him.
 14 Q Well, do you know his son's name?
 15 A They call him TC.
 16 Q You said a few moments ago that you sometimes
 17 make recommendations in Jackson Township for who might help
 18 with excavating work.
 19 A No, I don't make recommendations. I may -- if
 20 I'm asked, I'll give them some names.
 21 Q Do you provide more than one name, two names,
 22 what?
 23 A A couple.
 24 Q You provide a couple?
 25 A (Witness nods head affirmatively.)

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1 Q What names do you typically provide?
 2 A Well, the closest ones would be Peters.
 3 They're a longtime -- in the next township. They actually
 4 do a lot of the road work for Jackson Township. They're
 5 second generation. Hoffmasters.
 6 Q Anybody else?
 7 A Those -- and along with Eagle, those three do
 8 the majority of work on that -- that corner of the county.
 9 Q When you spoke to Mr. Corneal or heard from
 10 Mr. Corneal about, you know, his interest in getting an
 11 on-lot system, was that the first time you'd ever spoken
 12 with him?
 13 A Yes.
 14 Q It was, you'd never met him before?
 15 A No.
 16 Q Had you ever heard of him before?
 17 A Again, I heard the Corneal name from working
 18 with his brother in another township and I even had him
 19 confused with that brother initially. So, no, I didn't know
 20 him before.
 21 Q So when you went out to Mr. Corneal's property
 22 and met with him and I guess the nephew, Tom Wilson's nephew
 23 from Eagle Excavating, how long did that visit last?
 24 A We were there most of the day.
 25 Q So you got out there early in the morning?

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1 A Probably eight o'clock.
 2 Q And just describe for me in your own words
 3 with as much detail as you want to give what you did that
 4 day.
 5 A Went around and -- Mr. Corneal had a -- gave
 6 me a map showing roughly what he wanted to do with his
 7 proposed parcel. I'm not sure if he owned it then or not.
 8 And we went around and tried to find suitable sites on those
 9 lots he had marked out.
 10 Q So did the nephew from Eagle Excavating come
 11 with you on the entire trip?
 12 A Whoever was running the backhoe was with us
 13 all day, yeah.
 14 Q So you actually did some excavating that day,
 15 just to test out the soil and such, is that --
 16 A Well, we probably did 20 -- 20 soil pits,
 17 yeah.
 18 Q Was Mr. Corneal with you the whole time?
 19 A The majority of the day, I would say, at
 20 least.
 21 Q Anybody else?
 22 A Tom Wilson may have showed up some of the day,
 23 but I'm not sure, and I was introduced as -- a younger
 24 brother was there for a while.
 25 Q Wilson's younger brother?

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1 A Mr. Corneal's younger brother.
 2 Q Mr. Corneal's younger brother?
 3 A He was at that time talking about getting one
 4 of the lots. And there may have been a young teenager with
 5 him.
 6 Q Anybody else that you can think of?
 7 A It's two years ago. I've talked to a thousand
 8 people since then. That's about the best I can remember.
 9 Q Thank you. So you dug about 20 test pits that
 10 day. Now, was that the end of the excavating work that you
 11 had done in connection with the test pits on Mr. Corneal's
 12 property?
 13 A I think we did them all in one day, yes.
 14 Q You did them all in one day. So what else did
 15 you have to do to get to the point where you could -- let me
 16 say this. After you did the test pits, what did you do? As
 17 a sewage enforcement officer, what did you do next?
 18 A The next time I was there Eagle Excavating had
 19 prepared perc sites and I did perc tests.
 20 Q So you came back. How much later?
 21 A I think the soil sheet says August 9th.
 22 Q So within a couple weeks you went back out --
 23 A (Witness nods head affirmatively.)
 24 Q -- to look at the perc -- I'm sorry, to look
 25 at the perc tests, right?

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1 A To do the perc tests, yeah.
 2 Q To do the perc tests. What did you say Eagle
 3 Excavating had prepared, perc sites, is that what you called
 4 them --
 5 A Yes.
 6 Q -- perc sites? So they came on a different
 7 day and did that?
 8 A In between the time of the probes and the
 9 perc. A perc test is when you dig small holes in the area
 10 of the big holes, presoaked with water which simulates
 11 worst weather conditions. Then they leave water for me. I
 12 come out and do the perc test, which is measuring how much
 13 drop there is in the water. That converts on a chart to a
 14 square footage that -- the slower the perc, the more we have
 15 to spread it out.
 16 Q So when you say the lower the perc -- is that
 17 what you said?
 18 A The slower.
 19 Q The slower the perc. When you talk about the
 20 perc, you're talking about -- are you talking about the
 21 recession of the water or the --
 22 A Yeah.
 23 Q The slower the water goes down?
 24 A Yep.
 25 Q So the excavation company fills it with water?

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1 A They put 12 inches of water in.
 2 Q And then you wait how long after they do that?
 3 A Eight to 24 hours I come out.
 4 Q And do the perc test?
 5 A Um-hum.
 6 Q And how long does that take you?
 7 A Half hour periods for approximately two hours.
 8 Q So that was your second visit to the property,
 9 correct?
 10 A Yeah.
 11 Q Did you have occasion to go a third time prior
 12 to issuing whatever you were going to issue in connection
 13 with that property?
 14 A I can't recall being there again in '99.
 15 Q So what happened after you looked at the test
 16 pits and then did the perc test? Then what happened? What
 17 did you do?
 18 A I think as far as Mr. Corneal's property, the
 19 next thing would be wait to hear from the surveyor.
 20 Q And what are you waiting to hear from the
 21 surveyor?
 22 A That he has the modules completed.
 23 Q So you have to pass on the perc test, right,
 24 and the test pits, don't you?
 25 A Yes.

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1 Q And do you do that in writing or you just say
 2 okay, this looks good or what do you do?
 3 A I do it in writing.
 4 Q And in what form of writing?
 5 A There's a perc result sheet. I just forget
 6 the number on it but --
 7 Q It's a form?
 8 A Yeah.
 9 Q A state form?
 10 A Yep.
 11 Q That's the perc result sheet. What about the
 12 test pits, is it all part of the same sheet?
 13 A Um-hum.
 14 Q So you did that for Mr. Corneal's property?
 15 A Yes.
 16 Q And you were satisfied with the results?
 17 A We had suitable sites for each lot. Not all
 18 test pits were good, not -- but we had a suitable site for
 19 each lot, except there was one lot we did not have a
 20 suitable site for and -- but -- it wasn't a suitable site
 21 for a sand mound.
 22 Q But it could have been a suitable site for
 23 something else?
 24 A Possibly.
 25 Q What else?

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1 A Spray irrigation.
 2 Q So where was that lot, was that --
 3 A I would say on the eastern end of the
 4 property.
 5 Q Was it the one Mr. Corneal intended to build
 6 on?
 7 A No.
 8 Q So you signed off on the perc test and the
 9 test pits and then you wait for the surveyor to do what?
 10 What did you say, come up with a --
 11 A Complete the sewage module.
 12 Q Complete the sewage module. How long does
 13 that typically take? It depends on the size?
 14 A I've had them ready the next week and I've
 15 waited two years.
 16 Q For Mr. Corneal's property you waited a couple
 17 weeks?
 18 A More than that, I think.
 19 Q But eventually you got the sewer modules from
 20 the surveyor?
 21 A Yeah.
 22 Q And then what?
 23 A I reviewed them and signed them.
 24 Q So you approved them, correct?
 25 A Yeah.

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1 Q Now, did you have any conversations with
 2 anybody in between the time you did, starting at the
 3 beginning, the soil probe, your test pits -- in between that
 4 time and the time you did the perc test, did you have any
 5 conversations with anybody about the property?
 6 A Besides the surveyor?
 7 Q Yes.
 8 A And Tom Wilson calling and telling me the perc
 9 was ready, the percs were ready?
 10 Q Okay.
 11 A After that was done, I can't recall talking to
 12 anybody about the lot.
 13 Q But you talked to the surveyor you said?
 14 A Yeah.
 15 Q Just to discuss the property and move the
 16 project along, is that what you did?
 17 A Um-hum.
 18 Q Who is the surveyor?
 19 MR. SHERR: You have to say yes or no. You
 20 can't --
 21 THE WITNESS: Oh, sorry. Dave Simpson.
 22 BY MS. MONTGOMERY:
 23 Q Then after you had the perc test done -- well,
 24 let me back up a second. Tom Wilson called to tell you that
 25 the perc sites were ready --

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1 A Um-hum.
 2 Q -- for you to come test?
 3 A (Witness nods head affirmatively.)
 4 Q Did you have any other conversation with him
 5 about Mr. Corneal's property?
 6 A I can't recall, but in a busy time of the year
 7 I may be working on 50 other projects at different phases.
 8 They may be from just conversation to approving a module.
 9 Q So after Mr. Wilson called you and said the
 10 perc sites are ready and you went and did the perc test, did
 11 you then have occasion to talk to him again about Mr.
 12 Corneal's property during the period that the sewer module
 13 was being prepared?
 14 A I can't recall.
 15 Q You don't recall that. How about did you talk
 16 to anybody else about the property?
 17 A Not that I recall.
 18 Q Did the surveyor contact you to talk about it
 19 during that period of time or --
 20 A Yeah.
 21 Q He did?
 22 A (Witness nods head affirmatively.)
 23 Q From time to time?
 24 A He called me once and we talked and I remember
 25 meeting him at the courthouse and he showed me maps, but I'm

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1 not sure if he had modules with him at that time or if he
 2 just had questions about pit locations maybe.
 3 Q So the surveyor more or less consulted with
 4 you to make sure that he was designing the sewer modules in
 5 keeping with what had been approved on the property so far;
 6 is that correct?
 7 A Yeah.
 8 Q That's a fair way to say it?
 9 A (Witness nods head affirmatively.)
 10 Q So then you got the sewer modules, right?
 11 A It may have had something to do with the lot
 12 that the brother was going to get needed an easement. I
 13 think that was part of it, how he wanted me to lay the
 14 easement out. He had some questions, but that's not
 15 unusual. They usually check with me a couple times so they
 16 don't have to do stuff a couple times.
 17 Q Have you worked with Mr. Simpson on other
 18 projects?
 19 A Rarely. Every couple years I'll work with him
 20 on one.
 21 Q So then you got the sewer modules and you
 22 approved them, right?
 23 A That's the way I remember it.
 24 Q And then what happened? What did you do with
 25 them?

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1 A Got them back to Mr. Corneal.
 2 Q Did you send them to anybody else yourself?
 3 A Again, we're talking almost two years ago. At
 4 that time my wife was -- the company she works for was I
 5 think leasing a building owned by Mr. Corneal and somewhere
 6 along the way -- either picking them up or getting them
 7 there or somewhere along the way she took them to work for
 8 Mr. Corneal to pick up.
 9 Q I see. In State College you mean?
 10 A Yes.
 11 Q So after you approved them, she took them to
 12 work for Mr. Corneal to pick up?
 13 A I think it was at that time, yes.
 14 Q Now, after that did you have any further
 15 communication with anybody about those sewer modules for
 16 purposes of whether or not they should be approved further?
 17 A I don't recall of it.
 18 Q Did Mr. Wilson talk to you about them at all?
 19 A I don't think so.
 20 Q Were you present at any meetings among the
 21 Jackson Township supervisors or anybody else wherein those
 22 sewer modules were discussed after you approved them?
 23 A I can't recall of it.
 24 Q Did you have an opportunity to talk to anybody
 25 from the Huntingdon County Planning Commission?

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1 A I don't think I was contacted about that
2 property.

3 Q You don't think -- so just to be clear, did
4 anybody at all contact you about the property again to ask
5 you questions about your approvals of the sewer modules?

6 A At some time -- not about the sewer modules.
7 The person that was interested in buying part of it
8 contacted me.

9 Q Is that Mr. Hewett?

10 A Yeah. Somewhere along the way wanting to know
11 time frame or something, but I don't remember that
12 conversation word for word. I remember I talked to him.

13 Q Do you recall what you told him generally, not
14 word for word but generally?

15 A He couldn't do anything till we had the sewage
16 module approved.

17 Q Did you expect the sewage modules to be
18 approved?

19 A Yeah.

20 Q You did, okay. So let me just -- when did you
21 find out that the sewage modules had not been approved?

22 A When I said yes, I didn't mean maybe right
23 away. Sometimes there's a little -- things that have to be
24 worked out, but, you know, with the -- if everybody just
25 sticks with the project, why they get approved.

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1 Q Well, were these sewage modules approved to
2 your knowledge?

3 A They must not have been, but, again, that's
4 out of -- I'm out of that process after that, after I've
5 approved them.

6 Q But did you come to find out that the sewage
7 modules had not been approved?

8 A I was hearing that, yeah.

9 Q Who did you hear that from?

10 A I'm not sure. Mr. Corneal called me mid --
11 early winter 2000 and said about the moratorium and he was
12 wanting to start building and asked if I could issue him a
13 privy permit. So I was getting the idea that, you know, it
14 was held up because of the moratorium on -- and there was a
15 couple others, too, waiting for the moratorium to be done.

16 Q Moratorium on what?

17 A On subdivisions in Jackson Township.

18 Q Did anybody ever call you and ask you -- at
19 any time ask you to discuss with them, you know, any
20 problems with these sewer modules or any concerns at all?

21 A I don't recall of it.

22 Q So you say you remember hearing from Mr.
23 Corneal and he asked you to issue him a privy permit, right?

24 A Yes.

25 Q And what happened then?

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1 A Again, we go way back to when I talked about
2 lot, whether it's one acre or a hundred acres. If it's a
3 vacant lot, prior to '72 you can use a privy, but you can't
4 have piped water or water under pressure, is the way it
5 reads in the regulations. So Mr. Corneal had a lot, but it
6 had piped water and water under pressure on that lot. I
7 know that doesn't maybe make sense, but it's -- it's a
8 quarter mile away, but that's regulation.

9 Q So when you say he had a lot, you mean his
10 whole huge piece of property that included the farmhouse
11 that already existed?

12 A (Witness nods head affirmatively.)

13 Q Right?

14 A Yep.

15 Q And all the other things that he had maybe
16 tried to divide into --

17 A Until there's a DEP approved -- approval it is
18 a lot.

19 Q So the piped water -- well, let's go back to
20 the privy. So he asked you for a privy permit and what
21 process did you go through after he asked you for that privy
22 permit?

23 A I think I told him that was the problem with
24 it, that he couldn't use a privy on his property at that
25 time because it had -- technically had water -- piped water

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1 and water under pressure.

2 Q But if the property had been subdivided even
3 into two lots, you take the house with the water and then
4 the rest of the property is another lot --

5 MR. SHERR: Object to the form of the question
6 being a hypothetical question. You can answer it.

7 BY MS. MONTGOMERY:

8 Q Did you understand the question? I didn't get
9 to finish it but -- if the property was divided into two
10 lots, subdivided into just two lots --

11 A (Witness nods head affirmatively.)

12 Q -- one being the house with the water on it
13 and the other being the rest of the property which is -- do
14 you know how many acres that is?

15 A It's 95 acres, isn't it?

16 Q Something like that. Then would there have
17 been a problem with the privy permit?

18 MR. SHERR: Objection to the form of the
19 question, same basis. You can answer it.

20 BY MS. MONTGOMERY:

21 Q You can answer.

22 A If you have a prior '72 lot with no water, you
23 can use a privy. If you have a subdivided lot, meaning a
24 lot subdivided after '72 with DEP approval and it doesn't
25 have piped water and there's a site set aside so if you do

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1 put water in you can put a system in and the township has a
 2 privy ordinance, you can use a privy.
 3 Q Does the township have a privy ordinance,
 4 Jackson Township?
 5 A It was part -- I understood it was part of
 6 this new subdivision ordinance. I think there is now.
 7 Q Did you discuss issuing the privy permit to
 8 Mr. Corneal with anybody else at all before telling him that
 9 he couldn't have one?
 10 A I may have told Mr. Corneal I would see if I
 11 could think of a way we could do it that meets regulations,
 12 but I -- I -- with the water and -- but that's what the
 13 regulations say. Now, whether it's one acre or a thousand
 14 acres, if it's one parcel it's a lot.
 15 Q Are there provisions for exceptions to that
 16 regulation?
 17 A Exceptions is something you don't read in the
 18 DEP regulations, except that one I told you about, exception
 19 to doing the planning module if you meet the criteria.
 20 Q So you don't know of any exceptions to that
 21 general rule?
 22 A No.
 23 Q Well, anyway, there was another question in
 24 there that I don't think I quite got an answer to. Did you
 25 discuss Mr. Corneal's request for a privy permit with

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1 anybody else prior to telling him that he couldn't have it?
 2 A Maybe in our conversation I may have said
 3 something about I talked to the supervisors. Again, this is
 4 going through -- this was going through my mind. I was
 5 trying to think of a way that we could do that, but with --
 6 I looked -- glanced through the regulations again and I
 7 didn't see any way we could do it.
 8 Q Did the supervisors -- did you discuss with
 9 the supervisors --
 10 A I don't remember talking to them about that.
 11 If I could have found something in the regulations that I
 12 could have given a reason for it, I would have done that.
 13 Q Do you go to township meetings, Jackson
 14 Township meetings?
 15 A Sometimes, but I -- for a good period there I
 16 wasn't to one.
 17 Q A good period where?
 18 A While the moratorium was going on because a
 19 lot of times I go to the -- go to them with the landowner to
 20 explain to the supervisors what's going on, but if the --
 21 there's a moratorium on it there's no reason for me to go to
 22 explain because everything is on hold.
 23 Q You said while the moratorium was going on.
 24 Is the moratorium still going on in Jackson Township?
 25 A No.

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1 Q When was it lifted?
 2 A I think it was the summer of 2000.
 3 Q This is the moratorium on subdivisions, right,
 4 in Jackson Township?
 5 A Yes.
 6 Q So since the moratorium has been lifted have
 7 you had occasion to discuss Mr. Corneal's property with
 8 anybody in, you know -- just about the sewer modules?
 9 A Yeah.
 10 Q Who?
 11 A His attorney.
 12 Q Mr. Corneal's attorney?
 13 A Yes.
 14 Q Which one are you talking about?
 15 A Names a lot of times --
 16 Q Mr. Williams?
 17 A Mr. Williams. Terry Williams, yeah.
 18 Q And what was the occasion for that discussion?
 19 A We met with him a couple times, myself and the
 20 supervisors at the Huntingdon Courthouse, and then I met
 21 Terry and Mr. Corneal at the property.
 22 Q Well, have you had any discussions with the
 23 supervisors about Mr. Corneal's property since the
 24 moratorium has been lifted?
 25 A At these -- that's what's discussed at these

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1 -- when we meet with Terry.
 2 Q But I'm talking about other than meeting with
 3 Terry.
 4 A I can't recall of having discussions just to
 5 get together to talk about Mr. Corneal's -- we have had a
 6 couple meetings to talk with our solicitor at Ann Wirth's --
 7 but except for that type of meeting and -- I don't recall of
 8 it.
 9 Q You've had meetings with Larry Newton, you
 10 mean, township solicitor Larry Newton?
 11 A Larry's been at the meetings at the
 12 courthouse, yeah.
 13 Q To talk about Mr. Corneal's property?
 14 A That's what -- that's what it was about, yeah.
 15 Q Have you had any telephone conversations with
 16 anybody, with one or more of the supervisors, about Mr.
 17 Corneal's property since the moratorium was lifted?
 18 A It's mostly been about a meeting or coming
 19 down here.
 20 Q Who have you talked to?
 21 A Usually Ann calls me.
 22 Q She calls you what, to schedule a meeting or
 23 something like that?
 24 A Tells me when the meeting is going to be.
 25 Q What is your understanding right now of the

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1 township's position on Mr. Corneal's sewer modules?
 2 A **Incomplete.**
 3 Q I'm sorry?
 4 A **They're incomplete at this time.**
 5 Q The township thinks they're incomplete?
 6 A **Yes.**
 7 Q Why is that?
 8 A **The site that was originally proposed for his**
 9 **home and additional buildings is not suitable to be used.**
 10 **And I met with Mr. -- Terry and Mr. Corneal to discuss that**
 11 **and it was 4/18.**
 12 Q April 18th?
 13 A **Um-hum.**
 14 Q 2001?
 15 A **(Witness nods head affirmatively.)**
 16 Q Well, was this one of the sites that you --
 17 was this one of the sites that you had tested before?
 18 A **Yes.**
 19 Q It was one of the ones that you approved
 20 before?
 21 A **Yes.**
 22 Q And why is it now incomplete?
 23 MR. SHERR: I'm going to object to the form of
 24 the question because I think it misstates his testimony.
 25 You can answer it.

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1 MS. MONTGOMERY: Well --
 2 THE WITNESS: Because in the process of doing
 3 the building that you're doing there, they've disturbed the
 4 site, is the way it's referred to.
 5 BY MS. MONTGOMERY:
 6 Q Who made that determination, that they
 7 disturbed the site?
 8 A **I did.**
 9 Q How did he disturb the site?
 10 A **Driveways.**
 11 Q What did the driveway do?
 12 A **Encroached on the area that the system was**
 13 **intended to be put on.**
 14 Q When did you make that determination?
 15 A **I was there -- whenever I received the sewage**
 16 **module -- the last time we were at the courthouse I asked**
 17 **Terry if it was all right whenever I received the sewage**
 18 **module if I could enter the property to check to see if**
 19 **these sites that I did approve were still intact, still**
 20 **usable. So when I did receive the modules, I went out to**
 21 **look and determined that they were encroached on too much.**
 22 Q When you say encroached on too much, what is
 23 your concern?
 24 A **There's just -- there's so many driveways and**
 25 **areas that are disturbed there's not room to put the system**

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1 **in, put a system in.**
 2 Q Is there another spot on that parcel where
 3 he's building that would be suitable to put a system in?
 4 A **There wasn't at that time.**
 5 Q Is there now?
 6 A **He's had a soil scientist out there since then**
 7 **and I just reviewed that letter and I guess they've come up**
 8 **with a couple -- a couple sites. And the soil scientist**
 9 **also confirms in his letter that he agrees that that**
 10 **original site was disturbed and is unusable.**
 11 Q Who went out with you when you went to look at
 12 it? You said you wanted to go and see and make sure the
 13 sites were still intact. Who went out with you?
 14 A **I was by myself.**
 15 Q Is that the only time you went out to look or
 16 have you been out again?
 17 A **The day I met Mr. Corneal and Terry a couple**
 18 **weeks later.**
 19 Q Do you know whether anybody else has been out
 20 to the property?
 21 A **From the township?**
 22 Q **Yes.**
 23 A **Tom Wilson was there to meet with somebody**
 24 **about the driveway, supposed to meet Terry, but I'm pretty**
 25 **sure -- to the best of my knowledge he wasn't back in there.**

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1 MS. MONTGOMERY: I think we need to take a
 2 break for just a minute.
 3 (Break taken.)
 4 BY MS. MONTGOMERY:
 5 Q You testified a couple moments ago that you
 6 made a subsequent visit after the moratorium was lifted to
 7 look at the Corneal's property, correct?
 8 A **When the second sewage module was presented to**
 9 **the township.**
 10 Q What do you mean the second sewage module?
 11 A **This is the second one.**
 12 Q And has this been approved by you?
 13 A **It's one I -- the first one I signed that was**
 14 **for the four or five lots. This one I can't sign because**
 15 **the site isn't there anymore. I'm signing that there's a**
 16 **suitable site there for the dwellings that are being built.**
 17 Q Hang on a second, please. I want to consult
 18 with my client.
 19 (Mrs. Montgomery conferred with Mr. Corneal.)
 20 BY MS. MONTGOMERY:
 21 Q I'm sorry, you confused me there for a
 22 second. There weren't new modules submitted, right? It was
 23 the same set of modules that you had previously approved;
 24 isn't that correct?
 25 A **No. Is that it there? This is -- it's**

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1 requesting approval for an equivalent subdivision, no new
 2 lots.
 3 Q Let's go back a second and talk about that.
 4 When Mr. Corneal initially submitted these sewage modules,
 5 right, he was requesting a subdivision that included a
 6 number of different lots, correct?
 7 A Yes.
 8 Q Later he decided, and correct me if I'm wrong,
 9 that all he was asking was to have approximately 26 acres
 10 that had the existing house on separated from the rest of
 11 the property; is that correct?
 12 A That's not what that's requesting there.
 13 Q Well, no, because this isn't -- this isn't a
 14 subdivision plan.
 15 A Well, the one that I looked at was not -- it
 16 was requesting approval to put a second dwelling on it.
 17 Q Right.
 18 A There was nothing about subdividing.
 19 Q Right, exactly. He's not requesting
 20 subdivision anymore, is what I'm saying.
 21 A When you said 26 acres, that would be a
 22 subdivision.
 23 Q Initially he asked for a subdivision -- was
 24 planning to ask for a subdivision that had a number of
 25 different lots contained --

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1 A Fall of '99, yes.
 2 Q Right. Subsequently, after you approved his
 3 sewage modules, right, for sites on all of those different
 4 lots, right --
 5 A Um-hum.
 6 Q -- he changed his mind and said I'm only going
 7 to divide this parcel into two properties, correct?
 8 MR. SHERR: I'm going to object to the form of
 9 the question as to whether -- asking this witness Mr.
 10 Corneal's state of mind.
 11 BY MS. MONTGOMERY:
 12 Q Let's just back up a second. When you
 13 reviewed the initial sewage modules, was it your
 14 understanding that the plan was to divide the property up
 15 into about 10 lots, right?
 16 A I would say four or five.
 17 Q So you, correct me if I'm wrong, approved
 18 sewage modules in five different places, correct?
 19 A Septic sites, yes.
 20 Q Right, exactly.
 21 A Yes.
 22 Q Your understanding was that it was -- and
 23 we'll use your estimate, it was going to be divided into
 24 approximately five different lots at least, right?
 25 A Yeah.

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1 Q Then later, isn't it correct, that the request
 2 was not to subdivide but simply to approve the sewage -- or
 3 to allow him to build an additional dwelling on the entire
 4 95 acres?
 5 A Yes.
 6 Q And so is it your testimony that you then felt
 7 that you had to go out and see whether the original sewage
 8 modules that you approved would still be suitable?
 9 A The site was tested for that area where the
 10 house was being built. I wanted to make sure that was still
 11 a usable site.
 12 Q Did anybody tell you to go and look again?
 13 A The township told me they wanted to make sure
 14 that was -- that site was okay.
 15 Q Who at the township told you that?
 16 A It was sort of a -- I think Ann actually said
 17 the words.
 18 Q Ann said you should go and look to make sure
 19 the site is okay?
 20 A Yeah.
 21 Q So was it Ann's idea that you should go and
 22 look and see?
 23 A It was a general thing. They just wanted it
 24 to be right.
 25 Q So you went out and you looked -- you knew

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1 where Mr. Corneal was planning to build?
 2 A The last time we were at the courthouse about
 3 this building without permits, I asked Terry Williams if it
 4 was all right when I received the module, before I signed
 5 it, could I enter the property to check to see if that site
 6 at -- where the construction was going on was still a usable
 7 site and he gave me permission to do that. So I did -- when
 8 I received it, I went out and looked.
 9 Q And now tell me again why you determined that
 10 it was no longer a suitable -- that there was no site out
 11 there --
 12 A Well, he had had a designer submit a design to
 13 me that was like -- in the proximity of 15 by 70 some feet
 14 and till you take away all the limiting factors that are
 15 there for driveways there's only about 40 feet.
 16 Q But that was a septic design, right?
 17 A Yes.
 18 Q Not a sewage module design, right?
 19 A No, but we have to -- there's no use in
 20 approving the sewage module if we don't have -- with
 21 marginal conditions if we don't have -- we don't know
 22 there's a site there. That's what I'm signing. I'm telling
 23 DEP there's a -- you know, this site is okay to put a septic
 24 system on and we need your approval.
 25 Q When you initially approved the sewage

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1 modules, okay --
2 A Um-hum.
3 Q -- that you signed off on back in July or
4 August of '99, right?
5 A It was fall of '99.
6 Q Right.
7 A Or even early winter of 2000.
8 Q When you initially approved -- you're right,
9 February. When you initially approved those sewage modules,
10 did you have a specific septic design for each one of the
11 modules that you approved for each one of the sites?
12 A No, there is not a design done till the person
13 applies for a permit. It was a specific site for each
14 proposed lot, except for the one that was going to need more
15 testing if they did spray irrigation on and that was on the
16 other end of the property.
17 Q Right. So you didn't have a specific septic
18 design but you approved the modules anyway, right?
19 A For a specific -- it was a site -- it was a
20 site proposed for each lot.
21 Q And then if you had to make some adjustments
22 to the specific septic that went into each one, you would
23 have done that later on, right?
24 A Yeah, but it would have been working with an
25 undisturbed site.

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1 Q Maybe I didn't understand you, but I thought
2 that you said that you didn't -- well, no, you just tell me
3 in your own words. I won't repeat it back to you.
4 When you went out the second time, okay, you
5 found that you couldn't approve any sewage module out there
6 for Mr. Corneal's building or his house because why?
7 A The site that the design was done for was
8 unusable because of soil compaction from the driveways.
9 Q What's the regulation on how close the septic
10 system has to be, how far it has to be from a driveway?
11 A Ten feet.
12 Q Was the original sewage module that you
13 approved -- was there an original sewage module that you
14 approved for that area that Mr. Corneal wanted to build on?
15 A There was a site there, yes.
16 Q There was a site there?
17 A (Witness nods head affirmatively.)
18 Q Was it more than 10 feet from the driveway?
19 A There was no driveway there.
20 Q When you went back and the driveway was there,
21 was that site more than 10 feet from the driveway?
22 A There wasn't room to put the system there and
23 have the system 10 feet from the driveway.
24 Q What system?
25 A The proposed system.

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1 Q But you don't necessarily have to have the
2 system designed before you approve the sewage module, do
3 you?
4 A Well, you're supposed to have the sewage
5 module approved before you do any building.
6 Q Right.
7 A That's the problem, not the stuff I did.
8 Q Well, I think we're talking in circles a
9 little bit, but let's go back a second. You approved a
10 sewage module on a site that you knew that Mr. Corneal was
11 planning to build on, correct?
12 A That's what he told me, yes.
13 Q All right, good. Then it was disapproved by
14 the township, the township refused to approve it, correct?
15 A The sewage module.
16 Q The sewage modules that you initially
17 approved.
18 A It's a sewage module.
19 Q Well, there's five different forms here which
20 we'll have you identify in a little bit, but in any event,
21 then you went back again after the supposed moratorium was
22 in place, right, because the township --
23 A It was done away with. You mean afterwards?
24 Q It was lifted. Because the supervisors told
25 you to go back and look and make sure the site was still

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1 okay?
2 MR. SHERR: Objection, misstates his prior
3 testimony. You can answer.
4 BY MS. MONTGOMERY:
5 Q Did the supervisors tell you to go back and
6 look to make sure the site was still okay?
7 A They wanted to make sure it was okay.
8 Q So then you go back and you look at all the
9 different sites that you had approved previously, right, and
10 you know where Mr. Corneal was going to build?
11 A (Witness nods head affirmatively.)
12 Q Is your testimony now that there's no place
13 that he can put a septic system that's suitable for his
14 building on any of those previously approved sites where the
15 sewage modules had been approved already?
16 A No, I didn't say that.
17 Q What did you say?
18 A I received -- in the meantime I received a
19 design for his new house. I went and I looked at that
20 site. That site is not suitable because of driveways and
21 soil compaction. There is other sites on that lot.
22 Q That are already approved?
23 A That would be suitable if you wanted to go to
24 the -- if you wanted to go to -- but nobody said anything
25 about wanting to use a site that was 500 yards away.

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1 Q Now, you just said nobody talked about using a
2 site that was 500 yards away. Was there a site 500 yards
3 away that you think is suitable that was already approved by
4 you?
5 A There is a site that -- on that lot, yes.
6 Q Now, the site that you think is not
7 appropriate, that you now find is not suitable any more
8 because of the driveway --
9 A Yes.
10 Q -- is that more than 10 feet from the
11 driveway, the sewage module, where, you know, the --
12 A The test --
13 Q The area.
14 A The little test pit is 10 feet away but
15 there's not room to put a system in and be 10 feet away.
16 Q What kind of system? There's not room to put
17 what kind of -- any kind of system in?
18 A The sand mound that was designed for that lot,
19 for that dwelling.
20 Q And now I just need -- I know we're going
21 around in circles, but I'm really trying to understand your
22 position here. It's my understanding that you can approve
23 sewage modules without having an actual septic design in
24 front of you and you say this is suitable for some type of
25 septic system, correct?

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1 A Um-hum.
2 Q And that's what you did the first time,
3 correct?
4 A Yes.
5 Q Now, the second time you're saying that there
6 was a septic design that Mr. Corneal had in mind for a sand
7 mound; is that what you're saying?
8 A Um-hum. Yes.
9 Q But now you're saying that this module -- or
10 that that couldn't be put in place at that site that you had
11 approved previously, but that was what he was requesting you
12 to do, right? Was he requesting you to approve a septic
13 system or was he requesting you to approve a sewage module?
14 MR. SHERR: I'm going to object to the form of
15 the question because that's a compound question.
16 BY MS. MONTGOMERY:
17 Q Was he requesting you -- during the second
18 round, was he requesting the township to approve a sewage
19 module or a specific septic site, septic system?
20 A The sewage module, but where I assigned the
21 sewage module I'm saying there's suitable sewage -- suitable
22 areas for that, and what I was -- the design was a little
23 ahead of its time, you know. I didn't need the design yet.
24 Q Right.
25 A But I took the design out and that's what was

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1 proposed. There's not room to put that in. The way it
2 should be done is the sewage module approved, this area
3 staked off, if you're going to use that site, and then you
4 keep your driveways and your house and you keep everything
5 away from that, not illegally go in and do all this building
6 and driveways and disturbed sites and everything and then
7 expect this little area twice as big as this room to
8 accommodate a septic system.
9 MR. CORNEAL: We need to take a break a
10 second.
11 MS. MONTGOMERY: We can do it right here.
12 MR. CORNEAL: No, we need to take a break.
13 (Break taken.)
14 BY MS. MONTGOMERY:
15 Q Mr. Parks, I want to show you a lot plan which
16 I think you should recognize. I'm going to move it around
17 so you can see it.
18 MR. SHERR: Are we going to have this marked?
19 MS. MONTGOMERY: Yes, when I'm ready. Right
20 now I'm just using it to talk to him.
21 MR. SHERR: Please, I'm just asking whether
22 you're going to mark it --
23 MS. MONTGOMERY: And I just answered you.
24 MR. SHERR: -- and whether we're going to
25 refer to it. You don't have to --

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1 MS. MONTGOMERY: We're going to identify it.
2 We're going to do it all in good time.
3 MR. SHERR: Fine. That's all I was asking
4 you. My goodness gracious.
5 BY MS. MONTGOMERY:
6 Q Mr. Parks, have you seen this plan before?
7 MR. SHERR: This plan being what will be
8 marked soon, we understand, so we'll refer to it on the
9 record as just this plan.
10 MS. MONTGOMERY: That's right, for now.
11 MR. SHERR: All right. And I object to the
12 form of the question. You can answer.
13 THE WITNESS: Not in this form.
14 BY MS. MONTGOMERY:
15 Q You have not seen this plan in this form?
16 MR. SHERR: Object to the form of the
17 question.
18 BY MS. MONTGOMERY:
19 Q Let's talk about this plan here. Have you
20 seen a plan of proposed subdivision from David and Sandra
21 Corneal for this David and Sandra Corneal property?
22 A I've seen several of them, yes.
23 Q What is it about the plan that I'm putting in
24 front of you right now that is different from the ones that
25 you've seen?

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1 MR. SHERR: I'm going to object to the form of
 2 the question since the plan has not been marked nor referred
 3 to in --
 4 MS. MONTGOMERY: The rules don't require me to
 5 mark it if I don't want to. Go ahead. Can he answer?
 6 MR. SHERR: We don't have to argue objections.
 7 MS. MONTGOMERY: Can he answer?
 8 MR. SHERR: Of course he can. I'm just
 9 stating my objection for the record.
 10 BY MS. MONTGOMERY:
 11 Q Okay, let's answer.
 12 A **This was two lots and this was a lot. There**
 13 **was at least four. This was a lot -- oh, it is now too.**
 14 MS. MONTGOMERY: Do we have copies of this
 15 exact --
 16 MS. THORP: Yes, I just wanted to see what
 17 he's referring to.
 18 BY MS. MONTGOMERY:
 19 Q So you're saying you've never seen a proposed
 20 subdivision plan --
 21 A **I never saw this one, no.**
 22 Q -- in this form?
 23 A **No.**
 24 Q April 7, 2000 is what it's marked. Well, if
 25 you take a moment and look at this proposed subdivision plan

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1 that's marked April 7, 2000, are you able to read it? Do
 2 you understand what it --
 3 A **Um-hum.**
 4 Q -- represents?
 5 A **It's -- I saw it in basic form but it had more**
 6 **lots.**
 7 Q Now, we're going to give you a pen and let you
 8 mark for the record where you understand the Corneal's house
 9 or proposed building to be.
 10 A **Right there it has it.**
 11 Q Why don't you mark it for us.
 12 MR. SHERR: Again, I'm going to object to the
 13 form of the question unless you tell me that you're going to
 14 mark this and --
 15 MS. MONTGOMERY: I just told you I was going
 16 to mark it as an exhibit when I'm ready to mark it.
 17 MR. SHERR: And make it as part of the --
 18 MS. MONTGOMERY: I just told you that minutes
 19 ago.
 20 BY MS. MONTGOMERY:
 21 Q So here you go.
 22 A **The proposed -- I didn't step it off and**
 23 **measure and everything. The proposed house is fairly close**
 24 **to where it is.**
 25 Q Well, just for the record here, I'm going to

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1 ask you to mark on this plan with this blue pen the spot on
 2 the plan that you understand to be where the Corneals are
 3 building.
 4 MR. SHERR: If you can.
 5 BY MS. MONTGOMERY:
 6 Q If you can.
 7 A **Well, that's the surveyor's job. I -- just by**
 8 **memory I can't -- I don't even know where the lines were.**
 9 Q You can't read the plan?
 10 MR. SHERR: No, he can't do what you asked him
 11 to do.
 12 THE WITNESS: I'm saying the proposed house is
 13 close to where -- these two pits here -- if this is
 14 accurate, these two pits have driveways and this probably
 15 has -- is dug out stuff here. This pit is here, but the
 16 driveway is all around it but it doesn't look like -- is
 17 there a scale on this, an inch to a hundred maybe?
 18 MR. SHERR: One inch to 700 feet.
 19 MS. MONTGOMERY: We're going to mark this as
 20 Exhibit 1, this April 2000 -- April 7, 2000 plan as Exhibit
 21 1, Parks Deposition Exhibit 1. We may come back to it and
 22 I'll ask you some more questions about it. We're going to
 23 go to another subdivision plan and ask you to talk about
 24 that one.
 25 (Subdivision plan dated 4/7/00 produced and

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1 marked as Parks Exhibit No. 1.)
 2 BY MS. MONTGOMERY:
 3 Q I'm going to ask you to look at this
 4 subdivision plan that's dated February 4, 2000 for the
 5 Corneal property and ask you have you seen this plan before?
 6 A **No.**
 7 Q What plan did you see, do you recall?
 8 A **It would have been when I met Dave Simpson in**
 9 **the fall of '99.**
 10 Q Well, we're going to ask you the same question
 11 with respect to this February 4, 2000 subdivision plan. Can
 12 you see on this plan where the Corneal's proposed building
 13 for their personal home is?
 14 A **I see it, yeah.**
 15 Q Can you show it to me?
 16 A **Right there.**
 17 Q Can you circle it with this pen? Is there any
 18 problem?
 19 A **Yeah, I can circle it but --**
 20 Q Okay, would you do that for me.
 21 A **Is that all right?**
 22 MR. SHERR: If you feel confident, you know,
 23 in your ability to show from your memory where on a scaled
 24 map his proposed house would be, sure.
 25 THE WITNESS: I don't know where this property

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1 line is and that looks too close to the property line.
 2 Right here -- if this is the scale of one inch equals 700
 3 feet, those probes are 300 feet apart. They were not 300
 4 feet apart. This is not --
 5 BY MS. MONTGOMERY:
 6 Q But I'm not asking --
 7 A **It's not accurate enough for me to --**
 8 Q All I'm asking you to do is tell me where on
 9 this plan --
 10 A **It's in this area.**
 11 Q -- you see -- and I will circle it.
 12 MS. MONTGOMERY: Let the record reflect that
 13 Mr. Parks has pointed to the area that I circled. Does
 14 anybody disagree with that? Anybody disagree with that?
 15 All right. Now let's look at -- which we're going to mark
 16 in a minute.
 17 BY MS. MONTGOMERY:
 18 Q Let's look at Parks Exhibit 1, the April 7,
 19 2000 plan. Can you point on this plan --
 20 A **Same place.**
 21 Q Same place.
 22 MS. MONTGOMERY: So let the record reflect
 23 that Mr. Parks has --
 24 BY MS. MONTGOMERY:
 25 Q Can you point to it, where you think it is?

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1 A **Well, it's in this area, yeah.**
 2 Q In this area. This is where the Corneals
 3 propose to build their property -- I mean their house, all
 4 their buildings, right?
 5 A **Where the house is being built, yes.**
 6 Q Their personal houses, exactly. Now, can you
 7 also tell me -- let's work with this one now that you've
 8 looked at it and you can see where the Corneals propose to
 9 build.
 10 MS. THORP: This one being Parks Exhibit 1?
 11 MS. MONTGOMERY: Parks Exhibit 1.
 12 BY MS. MONTGOMERY:
 13 Q Are there a number of sewage sites?
 14 A **There's a number of sewage probes, yes.**
 15 Q Near and around that --
 16 A **Yes.**
 17 Q -- property that I've circled, this area
 18 that --
 19 A **On this map, yes.**
 20 Q Are these previously approved sites?
 21 A **This was an approved site which is -- no**
 22 **longer exists. The perc that I --**
 23 Q Let's stick with this one. Let the record --
 24 MR. SHERR: Wait, let him finish his answer.
 25 MS. MONTGOMERY: No, we're going to stick with

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1 this one.
 2 MR. SHERR: Well, you can't interrupt his
 3 answer.
 4 MS. MONTGOMERY: No, I am going to interrupt
 5 his answer because I want to be clear.
 6 MR. SHERR: Then I'll --
 7 BY MS. MONTGOMERY:
 8 Q I'm going to point to this one. You pointed
 9 to this one and said this one no longer exists.
 10 A **Right.**
 11 MR. SHERR: Let me just object to the question
 12 because I don't think the witness was done with his first
 13 answer and he should be entitled to finish.
 14 BY MS. MONTGOMERY:
 15 Q Are you finished telling me that this one no
 16 longer exists, what I'm pointing to?
 17 A **Yes.**
 18 Q Then I want to talk to you about this one.
 19 A **Okay.**
 20 MS. MONTGOMERY: Now, let the record reflect
 21 that you are pointing to an area that I guess I'll circle
 22 with a red pen, if anybody has a red pen.
 23 THE WITNESS: If you'd just use the probe
 24 numbers, that's the way I would refer to it.
 25 BY MS. MONTGOMERY:

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1 Q And the probe numbers are what?
 2 A **Eight, 9 and 10.**
 3 Q So we're going to circle probe numbers 8, 9
 4 and 10 and you say that this site no longer exists?
 5 MR. SHERR: Here's a black one.
 6 BY MS. MONTGOMERY:
 7 Q Right? Why does that no longer exist?
 8 A **Do you have the letter from Mr. Archmody that**
 9 **was done last week?**
 10 Q No, I don't have it with me.
 11 A **He says on there that it's no longer suitable**
 12 **because of compaction.**
 13 Q What would you have to do to make it suitable
 14 -- no longer suitable for what?
 15 A **For sand mound.**
 16 Q Let's go back to your earlier testimony. Did
 17 you testify that first in the process of getting ultimately
 18 a septic system on your property first you have modules
 19 approved, correct?
 20 A **First you do the testing.**
 21 Q Right, first you do the testing and you have
 22 your modules approved, you get them approved, right?
 23 A **Yes.**
 24 Q Then you send them off. You approve them, the
 25 township approves them, DEP approves them, correct?

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1 A Yes.
 2 Q Then they come back --
 3 A Yes.
 4 Q -- and then you issue an application, correct?
 5 A I send out an application, yes.
 6 Q For what?
 7 A A permit to put a -- install a septic system.
 8 Q And the septic system may or may not be
 9 suitable for the approved module and you'll figure that out
 10 when you get the septic system design, correct, the
 11 application with the septic system design; is that correct?
 12 A Say that again.
 13 Q Okay. Once the modules are approved --
 14 A Yeah, and I've sent out the application.
 15 Q You send out an application for a permit for a
 16 septic system, right?
 17 A Yes.
 18 Q The module's approved first, septic system
 19 approved much later --
 20 A Yes.
 21 Q -- correct? Permit issued much later?
 22 A Not necessarily much later, if things go
 23 smoothly. We've done this where this all happened in a
 24 month.
 25 Q So here you had an existing module that had

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1 wouldn't necessarily stop you from approving the site or
 2 some design because that's the first step, right, you
 3 approve the site, you approve the sewer modules that
 4 indicate that this is the site where you want to build,
 5 right, where you want to put in your septic system? Not any
 6 particular type of septic system but a septic system,
 7 correct?
 8 A Well, it's limited to what type of system can
 9 go in there.
 10 Q Right, but if one type can't go in, maybe
 11 another type can and that's down the road after you approve
 12 the modules, correct?
 13 A But the site still has to be there.
 14 Q Right, but the site is still there, correct,
 15 but you just decided that you couldn't approve the module
 16 because you couldn't put -- you didn't believe that you
 17 could put a sand mound system in there; isn't that correct?
 18 A Not on that site.
 19 Q Could you put some other system in there?
 20 A There's -- possibly.
 21 Q So why not just approve the module, wait for
 22 the formal application --
 23 A Well, if you're talking about the micromound
 24 stuff, if you look at your paperwork you'll see that is
 25 experimental and that still has to be DEP approved and --

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1 already been approved -- an existing site that had already
 2 been approved by you according to a sewer module that you
 3 signed, right?
 4 A There was an okay site there, yes.
 5 Q And you said that you now believe that it is
 6 not suitable for a sand mound septic system?
 7 A That's correct.
 8 Q Why would that stop you from approving the
 9 module anyway?
 10 MR. SHERR: Objection, asked and answered.
 11 BY MS. MONTGOMERY:
 12 Q From approving it?
 13 MR. SHERR: I'm sorry, were you done?
 14 THE WITNESS: I'm signing that there's -- the
 15 proposed site is --
 16 MR. SHERR: Mr. Corneal --
 17 MR. CORNEAL: I was just stretching. Thank
 18 you very much, Mr. Sherr, for paying attention to that.
 19 MR. SHERR: I always pay attention to you.
 20 BY MS. MONTGOMERY:
 21 Q Go ahead.
 22 A In the meantime I got the design for that.
 23 Where that design was proposing to use, that site is no
 24 longer available.
 25 Q But maybe you got a premature design. That

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1 Q Right, but they all have to be DEP approved,
 2 don't they? I mean, any septic system that goes in there
 3 has to be DEP approved, correct?
 4 A It has to be done to DEP regulations, but DEP
 5 doesn't actually have to approve it. It's already approved
 6 in the regulations.
 7 Q So I'm going to ask you why not just approve
 8 the module and wait for the formal application for a permit
 9 to build a particular septic system there? Why didn't you
 10 just approve the module, since it was already approved
 11 before, and just wait? You didn't have a formal application
 12 for that particular site, did you, for a permit?
 13 A Because we knew there was building going on in
 14 that area. I was asked to make sure that the site was
 15 there.
 16 Q That doesn't really answer my question. In
 17 the normal course of events, you approve a module?
 18 A Normal --
 19 Q Everybody approves a module that has to do --
 20 A In the normal course of events -- sorry.
 21 Q That's all right. Go ahead.
 22 A In the normal course of events, people wait
 23 until they have approval before they start building their
 24 house.
 25 Q Right, but these aren't the normal course of

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1 events, of course, here. So going on we say -- what I'm
2 asking you is why wouldn't you just approve the module,
3 approve the site, sign off on the modules, just like you had
4 before, and wait for an application for a permit for a
5 septic system? If it wasn't a suitable septic system, you
6 could deny it then.

7 **A It's just like you said, it's not a normal**
8 **circumstance.**

9 **Q** But nevertheless, normally that's exactly what
10 you would do.

11 **A Normally --**

12 **Q** And you didn't have a formal application, did
13 you, for -- you didn't have a formal application or a permit
14 for a specific septic system, did you, on that site? Did
15 you?

16 **A I had a design which sort of indicates to me**
17 **that they were planning on doing something there.**

18 **Q** Well, if somebody had just given that to you,
19 would that be -- would that satisfy all the permit
20 requirements, all the application for permit requirements,
21 would it?

22 **MR. SHERR:** Object to the form of the
23 question.

24 **THE WITNESS:** Once I had an approved lot.

25 **BY MS. MONTGOMERY:**

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1 that or the other thing but because you thought they might
2 want to build a particular type of septic system that you
3 decided ahead of time wasn't going to be appropriate,
4 right? Is that right?

5 **MR. SHERR:** Objection, argumentative. You can
6 answer.

7 **THE WITNESS:** Why did they send me that design
8 if they weren't planning on using it.

9 **BY MS. MONTGOMERY:**

10 **Q** Well, your counsel says this has been asked
11 and answered so I guess we'll move on.

12 **A I can just go by what information I have. And**
13 **when you get something in writing and here's maps and here's**
14 **letters and here's this and this, you must think, you know,**
15 **that's what they want to do, just like, you know, I saw**
16 **these with five lots and now I see them with three lots and**
17 **I see them there with three different lots and ...**

18 **Q** Working still with Exhibit 1 here, were there
19 any other sites on this plan that show previously approved
20 sites according to the sewer modules that you signed off on?

21 **A This is still proposed. None of this -- you**
22 **know, these lines and stuff in here is proposed. Right now**
23 **this 95 acres has other suitable sites.**

24 **Q** Right. So why didn't you sign off on those
25 modules this time?

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1 **Q** Well, we can talk in circles all you want, Mr.
2 Parks, but the question is pretty simple. Did you have an
3 application for a permit --

4 **A No.**

5 **Q** No, because you didn't have a previous -- you
6 didn't have an approved signed off sewer module, right, and
7 that's the first step, right?

8 **A I didn't have a DEP approval letter that I**
9 **could do that.**

10 **Q** DEP approval letter for what?

11 **A That I could issue permits.**

12 **Q** Right, and that's because first you need
13 modules signed by you and the township, right?

14 **A Right.**

15 **Q** So first you sign the modules, send it up to
16 DEP, they send it back and then you get a permit for an
17 application for a particular septic system, right?

18 **MR. SHERR:** Objection. It's been asked and
19 answered.

20 **BY MS. MONTGOMERY:**

21 **Q** But you denied -- correct me if I'm wrong, you
22 refused to sign off on the sewer modules the second time
23 around because you thought they were going to do a septic
24 system of a particular type, not because you had an
25 application for a permit and approved, you know, this or

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1 **A Nobody asked me to approve it on those.**

2 **Q** Well, the modules are all still in front of
3 the township, right? The modules are all there waiting for
4 approval. I mean, is there anything wrong with approving
5 this module?

6 **MR. SHERR:** Objection to the form of the
7 question.

8 **THE WITNESS:** Approving that site for that
9 lot?

10 **MS. MONTGOMERY:** Yes.

11 **THE WITNESS:** That could possibly be done.

12 **BY MS. MONTGOMERY:**

13 **Q** So let's let the record reflect that we're
14 pointing to -- I pointed to on Parks Exhibit 1 an area that
15 has perc numbers 17, 18 and 20, correct? Is that what you
16 were looking at?

17 **A Yeah. Now, I'm not sure if 17 was okay, but**
18 **there was a good site there.**

19 **Q** So I'm going to draw with a red pen a circle
20 around where you say there is a good site, in this general
21 area?

22 **A Um-hum.**

23 **Q** A good site for building that was
24 previously --

25 **A I'm not sure about 17.**

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1 Q So we'll draw 17 out of it, okay. Any reason
 2 why Mr. Corneal can't build a septic system over here for
 3 his buildings over here?
 4 MS MONTGOMERY: Let the record reflect I'm
 5 pointing to the 18, 20 septic --
 6 THE WITNESS: It would be possible to do that.
 7 BY MS. MONTGOMERY:
 8 Q Anyplace else on this map where it would be
 9 possible to put in a septic system in your opinion?
 10 A **Has the line dispute been settled on this?**
 11 Q What do you mean the line dispute?
 12 A **That they met with Mr. Corneal and he**
 13 **explained that the -- there was a line dispute on this lot.**
 14 **This is -- this line is what this person claims and this**
 15 **line is what --**
 16 Q Well, does that have some influence on whether
 17 or not you can approve any of these -- whether or not -- the
 18 modules for the sites here?
 19 A **If this belongs to -- does this belong to Mr.**
 20 **Corneal?**
 21 MS. THORP: Bridget, can you please identify
 22 the area that you're referring to here.
 23 MS. MONTGOMERY: I'm sorry, we are pointing to
 24 an area on Parks Exhibit 1 that's marked by perc numbers 24,
 25 25, 26 and 27.

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1 MS. THORP: Thank you.
 2 BY MS. MONTGOMERY:
 3 Q So you're saying that if this line dispute --
 4 you tell me. If this line -- if there is a line dispute and
 5 it has been resolved, is this a suitable place for a septic
 6 system?
 7 A **If that's on Mr. Corneal's property, that**
 8 **could possibly be a suitable site.**
 9 Q So why wasn't this site approved? Why didn't
 10 you sign the module for this site on the second round?
 11 A **Again, I'm back to where they more or less**
 12 **told me when they sent me the design they wanted to use that**
 13 **site there. When I met with Mr. Corneal and Terry Williams,**
 14 **they didn't say, okay, we won't use this, we want to pipe it**
 15 **500 yards to another site.**
 16 Q So that's your reason that you wouldn't
 17 approve for that?
 18 A **Yeah.**
 19 Q What about the area on Parks Exhibit 1 that's
 20 marked by perc numbers 22 and 23?
 21 A **I don't think they were any good.**
 22 Q You don't think they were any good?
 23 A **No.**
 24 Q But is it a suitable --
 25 A **I don't think it is.**

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1 Q Why is that?
 2 A **There's soil sheets in there. I think there**
 3 **was unsuitable soil there.**
 4 Q Anything else? Any other place here that you
 5 see on Parks Exhibit 1?
 6 A **Any of the sites, except for the backup site**
 7 **for the house, if they wanted to pipe it to that location**
 8 **and build the system, it would be possible to put a system**
 9 **in for where he's building his house.**
 10 MS. MONTGOMERY: Let's mark the February 4,
 11 2000 plan as Parks Exhibit 2.
 12 (Site plan dated 2/4/00 produced and marked as
 13 Parks Exhibit No. 2.)
 14 BY MS. MONTGOMERY:
 15 Q I want to discuss with you a little bit more
 16 this area that we've marked on Parks Exhibit 1 around perc
 17 numbers 8, 9 and 10. Why is that now not suitable for a
 18 sand lot system?
 19 A **It's not big enough for one.**
 20 Q It's not big enough for one?
 21 A **Right. Eight and 9 probably have buildings on**
 22 **-- or no, 8 and 10 probably have buildings on. Nine is in**
 23 **the middle of a little area that isn't big enough to put a**
 24 **system on without going across disturbed area or driveway.**
 25 Q What disturbed area? So you're saying it's

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1 not big enough without using a disturbed area or the
 2 driveway, is that what you're saying?
 3 A **The undisturbed area isn't big enough for a**
 4 **sand mound.**
 5 Q In what way is the area disturbed that makes
 6 it now unsuitable for a sand lot system or not big enough
 7 for a sand lot system?
 8 A **Well, as Mr. Archmody describes it in his**
 9 **report, because of driveways and soil compaction.**
 10 Q Now, when you talk about a driveway, what are
 11 you talking about? Are you talking about an asphalt
 12 driveway?
 13 A **Where they've been driving vehicles.**
 14 Q Are you talking about an asphalt driveway?
 15 A **No.**
 16 Q You're talking about some tracks?
 17 A **In one spot, yes.**
 18 Q Is that the same area that you're talking
 19 about compaction occurring?
 20 A **Part of it, yeah.**
 21 Q How do you resolve that? How could you
 22 resolve it to your knowledge? Could you fix that site to be
 23 okay?
 24 A **That's something you should talk to a soil**
 25 **scientist about. It's an involved procedure.**

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1 Q So you're not talking about this being too
2 close to like an asphalt driveway within the meaning of say
3 the regulations that say it has to be more than 10 feet from
4 a driveway? You're not talking about that, are you?
5 A A driveway doesn't need to be blacktop.
6 Q Well, that's true, but you're not talking
7 about an actual driveway, are you?
8 A It appears to be driveways. When you drive in
9 the road and that's where the road goes is around to the
10 buildings and everything and there's been heavy trucks and
11 cars and there's been at least macadam shale put down, it's
12 a pretty substantial effort to make it a driveway.
13 Q And you're saying it's within 10 feet of that?
14 A It would be if you put the system in. You can
15 not put this system in without going over compacted areas.
16 Q I understand your testimony to be that there's
17 an actual defined driveway now. You believe there's an
18 actual defined driveway. It's not blacktop, but it's a
19 defined driveway. Is there also another area that you
20 consider to be compacted?
21 A Yes.
22 Q Now, if you worked with the compacted area,
23 which is not a defined driveway -- is that correct, it's
24 just an area --
25 A There is an area where there's been vehicles

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1 running through that there's been no shale put on.
2 Q It's compacted because somebody drove over it?
3 A Many times.
4 Q Have you ever been faced with that situation
5 where there's been some compacted soil on a proposed sewage
6 site?
7 A Yeah.
8 Q And what do you do?
9 A Generally we refuse it.
10 Q You generally refuse it?
11 A Yes.
12 Q Do you say because it's compacted soil and
13 here's what you've got to do?
14 A Yeah, we usually try to find another site.
15 Q Well, is there a circumstance in which you
16 didn't just try to find another site but you said, gee, you
17 drove over that and so it's not suitable so here's what
18 you've got to do to make it suitable again?
19 A That's something you should talk to the soil
20 scientist about. I'm not a soil scientist.
21 Q But you are a sewage enforcement officer,
22 right?
23 A Yes.
24 Q So you have no idea as a sewage enforcement
25 officer -- and we're talking about a compacted area as

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1 opposed to a defined driveway. You have no idea what you do
2 to make that okay?
3 MR. SHERR: Object to the form of the
4 question. It's argumentative. You can answer.
5 THE WITNESS: But this really has nothing to
6 do with the module. It would be possible to probably --
7 under a soil scientist's guidance to dig that out of there
8 and put fresh fill in, but then fresh fill has to set for
9 four years before it can be used.
10 BY MS. MONTGOMERY:
11 Q Is it your opinion it needs to be dug out, put
12 fresh fill in and sit for four years?
13 A If you wanted to use that again, I would want
14 to hear -- want a soil scientist to --
15 Q To tell you what needs to be done?
16 A To tell what needs to be done. That's why
17 they go to college for eight years and have a doctorate
18 degree.
19 Q Mr. Parks, you've been referring to a letter
20 from a soil scientist, that you got a copy of a letter from
21 a soil scientist?
22 A Yes.
23 Q Did you turn that over to your counsel in the
24 course of our request for production of documents?
25 A No.

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1 Q Any reason why not? Do you have a copy of it?
2 A I have it in my pickup, but the supervisors
3 told me not to bring anything in.
4 Q Not to bring anything into the deposition?
5 A Yeah.
6 Q What about just generally turning over
7 documents in response to a request for production of
8 documents, did anybody ask you to do that?
9 A No.
10 Q Nobody ever asked you to search your documents
11 in response to a request for production of documents?
12 A Ann has the old documents.
13 Q But you have other documents apparently, like
14 the soil scientist letter.
15 A It just came, I think, yesterday.
16 Q It just came yesterday, okay.
17 A It was definitely this week.
18 Q Do you have any other documents in your
19 possession that you thought were covered by an instruction
20 from the supervisors not to bring that relate to this
21 subdivision, these sewer modules, anything?
22 A The thing I printed out of the regulations
23 that defines when a sewage module is needed.
24 Q What's -- I mean, why do you have that, just
25 specifically for reference in connection with the Corneal

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1 project?
2 **A Yeah.**
3 **Q** Where did you get that?
4 **A Out of regulations I have.**
5 **Q** Do you have anything else in your possession?
6 Not just in your truck, but anywhere in your possession?
7 **A Well, I have a complete set of the**
8 **regulations.**
9 **Q** Any other documents related to the Corneal's
10 project?
11 **A I have the map that Mr. Corneal gave me the**
12 **first day we met there and my original soil -- soil sheets.**
13 **This looks like the original one there maybe.**
14 **Q** Do you have any notes or correspondence of any
15 type from anybody other than the letter that you're
16 referring to from the soil scientist?
17 **A I can't think of anything else.**
18 **Q** What about the plan? You said you had a plan
19 in your possession that you got from Mr. Corneal. Did you
20 turn that over?
21 **A It's the original map that Mr. Corneal gave me**
22 **the day -- the first day we met there.**
23 **Q** So you still have that in your possession.
24 Well, okay, fine. I guess you couldn't turn it over if
25 nobody ever really asked you to turn any documents over,

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1 wrong site on the map? Did you tell somebody, oh, this was
2 -- I got this design, but it's a design for the wrong site?
3 **A No, I didn't tell them that -- oh, yeah, yeah,**
4 **it did have the wrong soil sheet on it.**
5 **Q** Tell me what design is that. What are you
6 talking about, just tell me about it in general?
7 **A The site that I -- the design that I received**
8 **had the criteria on there as far as limiting zone and perc**
9 **rate and slope for one site, but it -- again, you're asking**
10 **me to -- it was -- it did have the numbers on for this right**
11 **here.**
12 **Q** Okay. Can you point to that again?
13 **A (Indicating.)**
14 **MS. MONTGOMERY: Let the record reflect that**
15 **on Parks Exhibit 2 Mr. Parks is pointing to the area on the**
16 **map that's marked by perc numbers 24, 25, 26 and 27.**
17 **BY MS. MONTGOMERY:**
18 **Q** So you received a design --
19 **A The design had this soil sheet on it -- the**
20 **two of them were mixed up.**
21 **Q** Let me ask you this: Would that design have
22 worked there to the area that you just pointed to defined by
23 perc numbers 24, 25, 26 and 27?
24 **A I'd have to look at it again.**
25 **Q** Is that the sand mound design that you're

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1 right?
2 **MR. SHERR: Object to the form of the**
3 **question.**
4 **THE WITNESS: It was also the map, I believe,**
5 **that went with the first module. It was just an extra copy**
6 **that ...**
7 **BY MS. MONTGOMERY:**
8 **Q** What about the documents that show the sand
9 mound system that you've been referring to, do you have
10 them?
11 **A I'd given a copy to the township.**
12 **Q** You gave a copy to the township. In what
13 capacity, what context?
14 **A To show them what he has -- that I received it**
15 **and it's what he was proposing to put in back there.**
16 **Q** You have a copy of your own and you gave a
17 copy to the township, right?
18 **A The designer sent me three copies, yeah.**
19 **Q** Was there ever any other -- you know, any
20 design that was proposed for any other part of the -- any of
21 these other approved sites, previously approved sites on
22 Parks Exhibit 1?
23 **A There was no other designs that I received.**
24 **Q** At some point did you come to the conclusion
25 that a design that you had received was designed for the

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1 talking about?
2 **A Yes.**
3 **Q** That you've said now isn't suitable for the
4 areas marked by perc numbers 8, 9 and 10?
5 **A Um-hum.**
6 **Q** Mr. Parks, we had talked a little while ago
7 about a privy permit -- a request for a privy permit, I
8 should say, from Mr. Corneal, okay. Did you receive any
9 telephone calls from any of the supervisors or Ann Wirth
10 about Mr. Corneal's request for a privy permit?
11 **A Not that I recall.**
12 **Q** Did you receive any instructions, whether in
13 person or by telephone or in writing, from Ann Wirth or any
14 of the supervisors about Mr. Corneal's request for a privy
15 permit?
16 **MR. SHERR: Objection to the form of the**
17 **question. It's been asked and answered. You can answer**
18 **it.**
19 **THE WITNESS: I don't recall.**
20 **BY MS. MONTGOMERY:**
21 **Q** Do you recall talking to Ann Wirth whether in
22 person or by telephone about whether or not you should help
23 Mr. Corneal in any way in his effort to get an on-site
24 septic system?
25 **A I don't recall of talking to anything except**

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1 what was presented in the module. I'm always trying to make
2 the simplest way for everybody to get through this and on
3 with the other project, but you're asking me, you know,
4 5,000 conversations ago to remember ...
5 Q Do you recall telling Mr. Corneal that you
6 were told not to do anything to help him get a privy permit
7 or anything else?
8 A No.
9 Q For the record, I'm going to ask you to
10 identify a series of documents and tell me what they are.
11 MS. MONTGOMERY: I have copies for counsel.
12 Here's your copy. You can share with your counsel.
13 BY MS. MONTGOMERY:
14 Q I've just handed you a document, it's stapled
15 together. The first page on it has sewage facilities
16 planning module at the top. Can you look at that and tell
17 me whether or not you recognize the document?
18 A Well, I know it's a sewage module.
19 Q Related to what, Mr. Parks?
20 A The Corneal subdivision.
21 MR. SHERR: Was this -- I'm sorry, was this
22 marked?
23 MS. MONTGOMERY: It's going to be marked. I
24 just told him that we're going to identify these for the
25 record.

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1 MR. SHERR: It wasn't. I just didn't know
2 whether it was or not, that's all. Real simple.
3 MS. MONTGOMERY: No.
4 MR. SHERR: Keep it simple, easy.
5 BY MS. MONTGOMERY:
6 Q Can you give me a little more detail on what
7 these are, Mr. Parks?
8 A Well, this is the DEP form that gets submitted
9 to the township and then to DEP.
10 Q And did you sign these?
11 A Well, my signature is -- there's a copy of my
12 signature in here, yeah.
13 Q So this is the sewage facilities planning
14 module submitted to you from Mr. Corneal's property,
15 correct?
16 A Where is the original with my signature on
17 it?
18 Q We wouldn't have it. The township would have
19 it or you would have it. We don't have it. I mean, are --
20 let's look at page 5 of this document.
21 A Um-hum.
22 Q Do you see where your signature is, Barry
23 Parks?
24 A Yep.
25 Q Is that your signature?

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1 A It's a copy of my signature, yeah.
2 Q What's the certification number there?
3 A 2373.
4 Q Is that your sewage enforcement officer
5 certification number?
6 A Yes, it is.
7 MR. SHERR: I think the problem may be this is
8 all odd numbers and it appears as if they were -- it's
9 two-sided, the original is two-sided, and we don't have the
10 other side. If it's a copy you got from me, then I did copy
11 the other pages and attach them to the back of it.
12 MS. MONTGOMERY: You need to go get that
13 original group of documents. That might be the problem.
14 (Discussion held off the record.)
15 BY MS. MONTGOMERY:
16 Q While she's out, I'm just going to ask you to
17 look at what exists here right now. We may have an
18 incomplete form of this document. Look at what is numbered
19 -- see where you have a page 5 and then the next page it
20 says project narrative? Do you see that?
21 A Yeah.
22 Q Do you recall this being submitted to you
23 along with the original sewage facilities planning module
24 submitted by the Corneals? Is this document familiar to you
25 as you're looking at the project narrative?

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1 (Pause.)
2 THE WITNESS: Can you ask the question again?
3 BY MS. MONTGOMERY:
4 Q Okay, Mr. Parks. There may be a couple pages
5 missing from this, but is this the sewage facilities
6 planning module that was submitted to you -- a copy of the
7 sewage facilities planning module that was submitted to you
8 by the Corneals that you signed off on?
9 A Again, we're talking a year and a half ago. I
10 -- I don't think so.
11 Q Why don't you think so?
12 A It's not the way I remember the ...
13 Q Well, let's go back to page 5, okay?
14 A Yeah.
15 Q See where it says Barry Parks?
16 A Yeah.
17 Q See where it says -- there's a box that is
18 checked that says generally suitable for on-lot disposal,
19 this module does not constitute individual permit approval,
20 right?
21 A Yeah.
22 Q Where your signature is and where that's
23 checked, is that generally how you sign off on a sewage
24 module?
25 A Yes.

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1 Q So that would be an approval of the sewage
2 module right there, correct?
3 A **That would be, yeah.**
4 Q Let's go back to the perc tests which are on
5 this copy several -- the fifth page from the back, I
6 believe. Site investigation and percolation test report for
7 on-lot disposal of sewage. Is your signature down there on
8 the lower right-hand corner?
9 A **Yes.**
10 Q Does this indicate approval, satisfactory perc
11 test?
12 A **Yes. If we're talking about sites, that 4 and**
13 **5 doesn't look like -- site and garden. That 4 and 5**
14 **doesn't look like my writing, but that is the site and the**
15 **garden, that is the alternate site for the farmhouse.**
16 Q So this is approval of the perc test for those
17 sites, right?
18 A **That's the alternate site for the existing**
19 **house.**
20 Q Let's go to the next page.
21 A **That site is 7-A. It's the one down in back**
22 **of the pine -- little pine thicket there.**
23 Q So is this also an approval, an approved perc
24 test --
25 A **Yes.**

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1 Q -- report? Signed by you in the lower
2 right-hand corner. Okay, the next page.
3 A **See right there I have marked lot 7. This is**
4 **the one we did where Mr. Corneal explained to me how he was**
5 **going to build his house and his art studio and stuff.**
6 Q And did you approve this --
7 A **It was approved --**
8 Q -- perc test?
9 A **-- between probes 8 and 9, yes, which is the**
10 **site that I'm saying is no longer available.**
11 Q Okay, how about the next one?
12 A **That's the one that -- the day I was there the**
13 **younger brother was -- I assumed it was the younger brother.**
14 **He was there and he was looking at buying a smaller lot up**
15 **in the corner.**
16 Q For the record, this is the page of this
17 sewage facilities planning module that has a handwritten
18 number 6 at the top, right, a handwritten number 6 up on the
19 top right-hand corner?
20 A **Right.**
21 Q Did you write that number 6 on there? Is that
22 your handwriting?
23 A **I don't think so.**
24 Q Do you know what it refers to?
25 A **No.**

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1 Q Is that your signature -- a copy of your
2 signature on the lower right-hand corner?
3 A **Yeah.**
4 Q And is this an approved perc test?
5 A **Yes.**
6 Q And for what perc numbers?
7 A **Eighteen and 20.**
8 Q Can you show on the document or refer for the
9 record to the place on the document that shows where this --
10 where the reference to the perc numbers are?
11 A **The second place you circled in red.**
12 Q But on this document here, how can you tell
13 that this is a perc test approved for perc numbers 18
14 and 20?
15 A **I have it written there above the graph.**
16 Q Where it says peaked between 18 and 20?
17 A **Perked between 18 and 20.**
18 Q I'm sorry, perked between 18 and 20?
19 A **Yes.**
20 Q Now, the next page, which is the last page of
21 this document, what is that?
22 A **That's another approved perc site.**
23 Q For the Corneal property?
24 A **Yeah, it's the one that the soil sheet was**
25 **used for the design that I received.**

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1 Q So this is perc numbers -- between perc
2 numbers what, 24 and 26?
3 A **Yeah.**
4 Q Which you have handwritten and that's your
5 handwriting right above the graph in the middle of the page?
6 A **Yes.**
7 Q So you signed off on this perc test as well,
8 correct?
9 A **Yes.**
10 MS. MONTGOMERY: Tony, we just looked at the
11 original that you sent us and we do only have the odd
12 numbers.
13 MR. SHERR: I don't think --
14 MS. MONTGOMERY: It's not the original, it's a
15 copy.
16 MR. SHERR: I don't think I sent this to you.
17 I was just looking for my production and I don't think I
18 sent this to you.
19 MS. MONTGOMERY: We have it in a pile of
20 documents that we got on Friday afternoon.
21 MS. MALADY: If you have the even numbers, if
22 you can fax them to me, we'd appreciate it.
23 MR. SHERR: Yes, I don't -- I'm just looking
24 and I don't think I have -- all I'm saying to you is I don't
25 think I have it.

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1 MS. MONTGOMERY: Well, maybe we're wrong.
2 (Discussion held off the record.)
3 MS. MONTGOMERY: Well, for now, until we get a
4 complete copy, we are going mark this as Parks Exhibit 3 and
5 we'll go from there.
6 (Sewage facilities planning module produced
7 and marked as Parks Exhibit No. 3.)
8 THE WITNESS: Can I say that I would like to
9 see a copy of the whole thing with my signature on it before
10 I say this is the way -- it hasn't been tampered with?
11 MS. MONTGOMERY: Sure.
12 THE WITNESS: Because we're all saying that
13 it's mixed up and --
14 MR. SHERR: To my understanding you haven't
15 said that. You've only identified this as your signature.
16 I don't think you've testified that this was --
17 THE WITNESS: It's been copied and that could
18 have come from -- what you're looking at right there could
19 have been pulled out of another sewage module that was okay
20 and stuck in there.
21 BY MS. MONTGOMERY:
22 Q I mean, you already testified that you
23 approved the sewage module --
24 A Yes.
25 Q -- that was originally --

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1 A I did. I approved a sewage module. I thought
2 it was for more than -- just sitting here thinking about it,
3 I thought it was more than three lots, the original. That's
4 why I'm thinking this could ...
5 Q There's four lots, Mr. Corneal is saying.
6 A But, see, on the front page it says three lots
7 and the original one was -- you know, we have numbers back
8 here on these soil sheets for --
9 MR. CORNEAL: Can we go off the record for a
10 second?
11 MS. MONTGOMERY: We could. I don't mind.
12 (Discussion held off the record.)
13 THE WITNESS: They are my soil sheets and that
14 is a copy of my signature, although I have questions about
15 how this all is together here.
16 BY MS. MONTGOMERY:
17 Q Mr. Parks, we talked about the moratorium that
18 you referred to some time ago. What was your understanding
19 of the effect of the moratorium on your process of reviewing
20 sewer modules and applications for permits?
21 A Well, I still handle them the same way. If
22 they get to -- up to the moratorium and there's a moratorium
23 on it, it would just stop there till like Mr. Simpson --
24 well, not the Simpson -- the surveyor. There was another --
25 two brothers, the Simpsons, they were doing the same thing

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1 and they just waited until the moratorium was lifted, we
2 signed the module, sent it off when it was done and they're
3 putting roads in and getting ready to build legally.
4 Q But the moratorium was supposedly directed to
5 subdivisions, correct?
6 A Yes.
7 Q Not to sewer modules or to permits --
8 A Well, it's part of it.
9 Q But there wasn't a moratorium on you signing
10 off on sewer modules, was there?
11 A No.
12 Q Was there a moratorium on you signing off on
13 septic systems?
14 A Well, if there's a moratorium -- no, I could
15 still approve septic systems on approved lots. So if
16 somebody -- even during the moratorium, if somebody came
17 with an existing lot, we could still -- that's an existing,
18 that's already been subdivided, we could issue a permit on
19 that.
20 Q When did the moratorium go into place
21 according to your memory?
22 A That's really out of my -- you know, I'm --
23 Q I mean -- well, you said you were aware of it
24 so do you recall when it went into place?
25 A The winter of '99, 2000.

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1 Q I'm going to hand you a series of documents
2 that we will mark as Parks Exhibit 4 and I'm going to hand
3 out copies to counsel, the same documents.
4 (Activity records produced and marked as Parks
5 Exhibit No. 4.)
6 MS. MONTGOMERY: Let's just look through and
7 make sure we have the same thing. They should start with --
8 folks, for the record, they should start with a document
9 that says activity record for enforcement of the
10 Pennsylvania Sewage Facilities Act. The first date in the
11 left-hand column being 1/26/00, John Younker. Does
12 everybody have that?
13 MR. SHERR: What was the first date?
14 MS. MONTGOMERY: 1/26/00.
15 MS. MALADY: It may be in reverse order.
16 MS. MONTGOMERY: Are they in reverse order?
17 MR. SHERR: That's okay.
18 MS. MONTGOMERY: If you can just reverse the
19 order, guys, then we can get started.
20 BY MS. MONTGOMERY:
21 Q Mr. Parks.
22 A Um-hum.
23 Q Your first document, does it say 1/26/00?
24 A Um-hum.
25 MR. SHERR: You have to say yes or no for the

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1 court reporter.
 2 THE WITNESS: I'm sorry, yes.
 3 BY MS. MONTGOMERY:
 4 Q Do you recognize this document?
 5 A Yeah.
 6 Q Did you fill it out or did you type it out
 7 yourself?
 8 A Yeah.
 9 Q You did?
 10 A Well, my wife types them.
 11 Q So on the 1/26/00 column there it refers to
 12 John Younker?
 13 A Um-hum.
 14 Q And just tell me what -- just reading across
 15 what does that refer to in total?
 16 A Activity described is an application.
 17 Q Application for what?
 18 A Sewage permit. All applications are for a
 19 sewage permit.
 20 Q You mean so this is after already existing
 21 modules were approved?
 22 A Yep.
 23 Q So this is an application for a sewage permit
 24 for what?
 25 A For a septic system.

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1 Q And do you recall -- well, let me look at
 2 this. What's in the next column, 2/00? Is that completely
 3 unrelated?
 4 A That's prepare and reimbursement forms for the
 5 township. That's something we have to do for DEP, reports
 6 we send in at the end of the year.
 7 Q So these are two completely unrelated
 8 activities, correct?
 9 A Yep.
 10 Q So down in the right-hand corner it says
 11 period covered February 2000. Is this everything that you
 12 did for Jackson Township --
 13 A Yes.
 14 Q -- for February 2000?
 15 A Yes.
 16 Q So this John Younker application for a --
 17 A Um-hum.
 18 Q -- permit for septic system -- is that what it
 19 is?
 20 A Yes.
 21 Q Do you recall whether you approved that or
 22 didn't approve it or what?
 23 A I approved that.
 24 Q When did you do that?
 25 A Well, I --

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1 Q Shortly thereafter?
 2 A Yeah, existing lot.
 3 Q It was for an existing lot?
 4 A Yes.
 5 Q So this was for an existing lot. Did it have
 6 any houses on it?
 7 A No.
 8 Q So it was for -- in connection with getting a
 9 building permit, correct?
 10 A Yeah.
 11 Q Is it in any way subdivided?
 12 A It was previously subdivided.
 13 Q It was earlier subdivided?
 14 A Yeah.
 15 Q When?
 16 A I don't recall exactly. It was -- it seems
 17 like it was -- it was one of those that took a good while
 18 for the surveyor to get done. I don't recall right off. It
 19 was one of the slower surveyors who did it.
 20 Q Was the subdivision approved in 1999? When
 21 you say it was previously approved, was it a 1999 approval
 22 to your memory?
 23 A I don't remember.
 24 Q Let's look at the next page. It should say --
 25 3/29/00 is the first date in the left-hand column.

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1 A Yep.
 2 Q Can you explain to me what that is?
 3 A The Robert Treaster --
 4 Q It looks like Treaster.
 5 A I'm thinking that was a -- a camp. It may
 6 have even been on state land. In Jackson Township there's a
 7 lot of state leased land where they -- back in maybe the
 8 early 1900's they sectioned off hundred-by-hundred squares
 9 and people lease them to build a camp on and they own the
 10 camp but they don't own the land. Every 10 years the lease
 11 renews.
 12 When that lease renews, a lot of times the
 13 park department, DC&A, send me out -- send me a letter to go
 14 out and inspect there, which is usually a privy, but in some
 15 cases a few of the real old ones -- they're not supposed to
 16 have water on site so we usually update their privy. If for
 17 some reason -- a couple of them have water and there's no
 18 room to put septic on so we put them in a holding tank. I
 19 think that's what that was.
 20 Q So this application is for a holding tank?
 21 A Yes.
 22 Q What is a holding tank exactly?
 23 A Waste carried by water to a sealed vault to be
 24 pumped out and taken to another site.
 25 Q So is it different than a privy?

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1 A Yes.
 2 Q Do you know --
 3 A A privy there is no water involved.
 4 Q How did you dispose of this holding tank
 5 application?
 6 A I issued a permit for it.
 7 Q And the next one is David Freeman, application
 8 for tank replacement, right?
 9 A Yeah.
 10 Q What is a tank replacement?
 11 A It was one that had an undersized tank or a
 12 tank that was damaged and an existing house. Like if one
 13 would go bad at Mr. Corneal's farmhouse, we would issue a
 14 repair permit to -- just to put in a new tank. You're not
 15 allowed to modify the field drain any.
 16 Q So this is a holding tank replacement, is that
 17 what you're saying or --
 18 A A septic tank replacement.
 19 Q A septic tank replacement?
 20 A A holding tank there is no drain field.
 21 Q So you approved that, right?
 22 A Yes. A repair -- both of these were basically
 23 repairs and repairs we must do. It's in regulations that
 24 it's our responsibility to -- abatement of a health hazard.
 25 Both of these were abatement of a health hazard and it's in

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1 A Well, they're legal size paper. The front
 2 piece is white. When I send them -- there are actually four
 3 carbon copies. There's a white one that stays at the
 4 township, there's a pink one that goes to DEP, there's a
 5 yellow one that goes to the applicant and there's a green
 6 one that is sent into DEP after they are final inspected.
 7 Q So going back to the first two documents, the
 8 application for John Younker, the application for the
 9 holding tanks, they all go on the same type of application
 10 form?
 11 A Yep, the form is the same.
 12 Q The form is the same?
 13 A Yep.
 14 Q And when you're finished with them, you send a
 15 copy to the township, right?
 16 A When I'm totally done with it.
 17 Q And this is just one page typically, the
 18 application?
 19 A The application is just one page, but there
 20 may be there's a soil sheet that goes with it if it's --
 21 now, if there's a tank replacement or a holding tank or a
 22 privy, there's no soil sheet, but there may be other guides
 23 on how to install -- if it's a privy, how to install a privy
 24 and isolation distances and -- it's written right on there
 25 you can't have indoor plumbing and water on site.

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1 the regulation and we must do that.
 2 Q The next page we have a document -- I guess it
 3 might be easier to identify it by the reference in the lower
 4 right-hand corner, period covered May 2000, right? Do you
 5 see that? Do you have it?
 6 A Yep.
 7 Q And the first date on the left-hand corner is
 8 5/31/00, correct? Can you tell me what that was, Debra Kerr
 9 application for what?
 10 A It's not ringing a bell.
 11 Q Do you see the interim inspection and the
 12 final inspection?
 13 A Um-hum.
 14 Q Does that help?
 15 A No.
 16 Q Now, let me ask you something. I mean, you
 17 would have actual written applications for these
 18 activities --
 19 A Yes.
 20 Q -- that we've been talking about?
 21 A Yes.
 22 Q Where are they kept?
 23 A When I'm done with them, I turn them over to
 24 the township.
 25 Q What do they look like, the applications?

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1 Q So some of the applications are going to be
 2 just the one page application, some of them are going to
 3 have an attachment or two to them or something like that?
 4 A And if it's a sand mound or a system, it's
 5 going to have a design like saying I received --
 6 Q Like one of these, something like this or --
 7 A No, it might have 15, 20 pages in it. It
 8 should be everything you need to know about --
 9 Q The design?
 10 A -- installing that septic system.
 11 Q I see. And then when you dispose of these,
 12 when you say, okay, approved or granted or something like
 13 that, what does that document look like?
 14 A There's just a place I sign off on.
 15 Q So it's the same application?
 16 A Yeah.
 17 Q And you just check off on that and that's a
 18 freestanding form, correct, just a single form?
 19 A Yes.
 20 Q And it goes in a file in the township office?
 21 A Yes.
 22 Q Kept by whom?
 23 A Ann.
 24 Q Do you keep any copies for yourself?
 25 A Not usually.

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1 Q So you don't recall what Debra Kerr applied
 2 for then?
 3 A No.
 4 Q Then we'll move on to the next sheet.
 5 A Although that -- I think that's one in Ken
 6 Miller's subdivision.
 7 Q Ken Miller's subdivision?
 8 A Yeah.
 9 Q Tell me about Ken Miller's subdivision.
 10 A He had -- back Miller Road -- well, it's back
 11 the road -- it's right across from Mr. Corneal's driveway.
 12 The Millers have owned land two generations out there and
 13 it's -- they used to be loggers and now Ken Miller's selling
 14 -- subdividing. We've worked on this all through the
 15 nineties. The last subdivision was approved '98 -- I'd say
 16 '98, '99.
 17 Q So you think this was for --
 18 A This is one of the lots.
 19 Q A building lot in Ken Miller's subdivision?
 20 A They're big -- you know, it's the top of the
 21 mountain. He had probably 300 acres and he might have got
 22 10 lots. You know, it's real skimpy stuff. They're big 20,
 23 30 acre lots.
 24 Q So they're 20, 30 acre lots and so people are
 25 building individual homes on them?

135

1 A Yes. I think Kerrs were up there.
 2 Q The next page says period covered May 2000.
 3 Do you see that up in the left-hand column?
 4 A May 2000, yes.
 5 Q Then up in the left-hand column it says May 1,
 6 2000, 5/1/00?
 7 A That year I probably issued four or five
 8 permits in Mr. Miller's subdivision.
 9 Q So you think Drew Tomlinson --
 10 A I'm pretty sure McLaughlin is and -- I think
 11 the other one is too.
 12 Q So these are permits for septic systems,
 13 on-site septic systems?
 14 A Yep.
 15 Q For whatever, it might be sand mound, it might
 16 be something other?
 17 A Up there they're all sand mound.
 18 Q They're all sand mound, okay. So did you
 19 approve Drew Tomlinson's and Mark McLaughlin's to your
 20 memory?
 21 A Yes.
 22 MR. SHERR: Could we go off the record for a
 23 second?
 24 MS. MONTGOMERY: Yes.
 25 (Discussion held off the record.)

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1 BY MS. MONTGOMERY:
 2 Q So now we're at --
 3 A If you'll look on this list here, Ken Miller's
 4 subdivision was approved 9/16/97, Ken's Acres. Now, wait,
 5 that isn't it. Kenwood was Ken Miller and Kenwood and --
 6 MR. SHERR: Just for the record, he's
 7 referring to the document I gave you this morning.
 8 MS. MONTGOMERY: Right. I was just asking
 9 Leslie for my copy of that.
 10 THE WITNESS: Oh, right there it was.
 11 3/24/99, 16 lots.
 12 BY MS. MONTGOMERY:
 13 Q So let's move onto the next sheet which is
 14 period covered June 2000. Up in the left-hand column it
 15 says 6/20/2000, June Price, is that ringing any bells with
 16 you?
 17 A That -- Ken Miller's was a real happening
 18 place there.
 19 Q So is this from the Miller subdivision?
 20 A I think so.
 21 Q And it's an application for an on-lot septic
 22 system, right?
 23 A On an approved lot approved in -- prior
 24 approved.
 25 Q The next page the period covered is June 2000?

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1 A I think that was a --
 2 Q It's page 2 of the period covered June 2000?
 3 A Yeah.
 4 Q I'm sorry, that was backwards. This is page 1
 5 of the period covered June 2000 and it begins 6/2/2000. Do
 6 you see that?
 7 A Yeah.
 8 Q Go ahead.
 9 A Again, there's an application for a holding
 10 tank. I think that was a little place that was just -- it
 11 had water but there was no place left to put a system in.
 12 So, again, abatement of a health hazard, it's our
 13 responsibility to issue a holding tank as just a last --
 14 last resort, when nothing else will do, short of tearing the
 15 house down and making people move.
 16 Q What about William Couch, the next guy down?
 17 A Okay, that's a -- an existing farmhouse that
 18 was sold and to sell it the realtors wanted dye tests. The
 19 gray water went to the creek, into the ditch, so I made them
 20 put a new system in, which is what the site check, the
 21 application -- that's a repair. Again, that's our
 22 responsibility to -- abatement of a health hazard.
 23 Q What's the application/alteration permit?
 24 A That one -- we later put a new system in, but
 25 that one was to change the indoor plumbing so that the gray

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1 water didn't go into the ditch, it went into the septic
2 system.
3 Q The next one, Roy Augenstein?
4 A That was for a subdivision I'd say done in
5 '98. It's over an icehouse above the Whipple's Dam Store,
6 old subdivision.
7 Q So it was an application for what, I'm sorry?
8 A A new house.
9 Q For a septic system for a new house?
10 A Yeah.
11 Q Did you approve it?
12 A Yes.
13 Q Allen Crabtree/Watkins, what's that?
14 A I -- that is not ringing a bell, but you need
15 to remember I do this in 18 townships and I look at -- I
16 issue a hundred permits a year.
17 Q Okay, you remembered some of them. So that
18 one is not ringing a bell. Now, the next one it says for
19 period covered August 2000. Now, mine were reversed. So
20 it's page 1 of 2 and page 2 of 2 and I want to start with
21 page 1 of 2. Do you see there it says Joe Baker 8/2/2000?
22 A Um-hum.
23 Q Is that ringing a bell?
24 A Yes.
25 Q What is that?

139

1 A I'm not seeing it.
2 Q It should be page 1 of 2, period covered
3 August 2000. Look at the bottom of the one underneath it.
4 MR. SHERR: No, he doesn't have it.
5 MS. MONTGOMERY: You don't have it?
6 MR. SHERR: No.
7 THE WITNESS: No, but I know him. He'd done
8 an earlier -- Joe Baker, yeah.
9 MR. SHERR: I'll just show him my copy.
10 THE WITNESS: He had an existing house that
11 several years ago he -- oh, it was an existing trailer on
12 four or five acres. We had put a repair in several years
13 ago. There was a malfunction there. He bought it. He
14 wanted to build a house on the other half so he had
15 subdivided it. That had been going on for years.
16 BY MS. MONTGOMERY:
17 Q Did you approve it? Did you approve his
18 application?
19 A When I got the proper paperwork and it was
20 properly DEP approved and it was installed and everything,
21 yes. He followed the proper channels and I did approve it.
22 Q I'm just asking if you approved Joe Baker's
23 application is all. Did you?
24 A Yes.
25 Q What about William Guyer?

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1 A Mr. Guyer had a couple different places that
2 he -- I don't know if he's retired and if this is kind of a
3 hobby for him or something. He built these two cabins.
4 They look like they were 20 some years old. I don't think
5 they've ever been lived in. They're three-quarter done. He
6 thought he was going to get ambitious and finish them and
7 put a septic system in. I did do testing but he's never
8 submitted an application so it's still --
9 Q Did you approve the modules?
10 A There's no module. This was prior to '72.
11 Q So this just went right to a -- well, you did
12 a probe and a perc?
13 A They're still on hold.
14 Q So what's the application refer to, just
15 directly to an application?
16 A I have an application I'm holding until he
17 gets me a design.
18 Q And he has cabins up there now?
19 A They're just little house cabins that he just
20 tinkers around with them, works on them once in a while but
21 nobody lives there.
22 Q Do they have any septic up there at all now?
23 A (Witness shook his head negatively.)
24 MR. SHERR: You have to answer out loud.
25 THE WITNESS: No. Nobody is living there.

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1 They're not occupied.
2 BY MS. MONTGOMERY:
3 Q So the one underneath William Guyer, that's
4 just the other cabin, right?
5 A Yes.
6 Q The next one down. Just for a point of
7 reference here, there's numbers under each of these people's
8 names, like R40132.
9 A That's a DEP code number.
10 Q It's a DEP code number. What's the R40132
11 refer to?
12 A No, that's the application number, the DEP
13 number. That's not the module approval number, that's the
14 number -- each of these applications -- they come in a big
15 tablet. Every one of them, just like a bill sheet, has a
16 number.
17 Q Well, some of them start with R and some of
18 them start with Q. What's the difference?
19 A Out of two different tablets.
20 Q That's it, okay. These two houses from
21 William Guyer are on the same lot, right?
22 A I don't think so.
23 Q You think they're on two different lots?
24 A Yeah, the Guyers broke off a bunch of stuff in
25 the sixties, seventies. These are prior regulations which

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1 is '72. If you read on top of the module there, it says
2 lots created after May 15th of '72 so we're -- up here.
3 Q Oh, I see what you're saying, right.
4 MR. SHERR: The witness was referring to what
5 had previously been marked as Parks 3, I believe. I don't
6 know if it's been previously marked.
7 MS. MONTGOMERY: Parks 3, sewage facilities
8 planning module.
9 MR. SHERR: Yes.
10 BY MS. MONTGOMERY:
11 Q The last -- well, is this the last page? No,
12 not quite. The next page is page 2 of 2 for the period
13 covered August 2000. Do you have that? It starts with
14 Stanley Wensell or something?
15 A Yeah, Stanley Wensell. Augenstein, that's a
16 -- Stanley is the contractor. Augenstein, a hundred
17 dollars. It had to be a -- just a tank replacement.
18 Q What about Keystone Financial, Yoder estate,
19 enforcement?
20 A That was a real estate transfer that -- that a
21 finance company must have requested I do a dye test, or at
22 least a site check on it.
23 Q Is it an existing lot or something?
24 A Yeah. Well, if it's a real estate transfer
25 and I'm checking the septic, that means there's a house and

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1 septic and everything there. They just wanted, for some
2 reason, it looked at to make sure it's not going into a
3 stream or something.
4 Q What about period covered September 2000, page
5 1 of 1, Donald Dearment?
6 A Dearment. That must have been -- we did nine
7 probes on it and three percs. We were looking for a -- it
8 was a repair. We had trouble finding a new site and it was
9 repairing a malfunctioning system.
10 Q And where is this, in a development?
11 A No, this would be an existing old house. And
12 Jerry Willey was the same thing, a house that maybe was
13 built in the fifties or sixties that now the system is a
14 malfunction so we try, if at all possible, to bring it up to
15 today's standards. Sometimes on lots in that area we have
16 to do a lot of looking around to find a suitable place.
17 Q So you approved these applications, right?
18 A Yes.
19 Q The Willey and Dearment applications?
20 A Yes.
21 Q Now, 9/20/2000 -- I'm sorry, go to the next
22 page, period covered October 2000. Thomas -- what is that,
23 Henwood?
24 A I don't have that one either. The next one --
25 the only one I have left is George Simpson.

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1 MS. THORP: I have an extra one.
2 (Discussion held off the record.)
3 BY MS. MONTGOMERY:
4 Q Are you looking at it?
5 A Yeah.
6 Q Thomas -- what is it, Henwood?
7 A I think so.
8 Q Did we already do him?
9 A No, I don't think so. I'm not recalling that
10 -- that name. Raymond Tussey was a farmer who just got
11 remarried and they wanted to build a new house. He had a --
12 on his deed it was listed as two tracks of land. So the one
13 smaller track was like 20 acres and it was a vacant parcel.
14 He could -- that was treated as an existing lot because it
15 was existing. So we just did the testing. He didn't need
16 to do a module on it because he built it as one house on one
17 existing lot.
18 Q So you treated it as an existing lot?
19 A Yes.
20 Q So what did he do with his old house?
21 A I think one of his kids took over the farm.
22 Q So you approved that. You just went right to
23 the septic system, right, and just approved that
24 application?
25 A We did testing and permitted and put the

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1 system in and everything else.
2 Q Skipped the modules and went right to the --
3 right?
4 A Well, we didn't have to do the modules. It
5 was a pre-'72 lot.
6 Q What about this Mr. Esh/Camp Gunsmoke?
7 A That's one of those state leased that I get
8 the letter on and have to go out. If it's not on a --
9 privy's not on a sealed vault, it's like the old ones used
10 to be with just a hole dug in the ground, we bring it up to
11 today's specs and put it on a sealed vault.
12 Q This says application for a privy, right?
13 A Yeah.
14 Q So do you recall this project?
15 A I think so. I think it's one of the ones
16 going over the mountain to State College.
17 Q So you approved this application for a privy,
18 a privy permit?
19 A Yeah.
20 Q How about -- the last page I have is March
21 2001.
22 MS. MONTGOMERY: Is everybody else there?
23 BY MS. MONTGOMERY:
24 Q George Simpson, what's that?
25 A That was the other -- one of the subdivisions

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1 that was caught in the moratorium. And when the moratorium
 2 was over, they submitted their modules and got an approval
 3 and got a permit.

4 I need to clarify something here. You
 5 questioned if I approved these applications. If I -- if I'm
 6 not going to approve it, I probably didn't send them an
 7 application. Because if I think it's to the point where
 8 it's going to work, I send an application. As long as I get
 9 the design that's going to be suitable for that particular
 10 repair or new house or whatever it is, I'm going to issue
 11 the permit.

12 Q Now, this George Simpson property, is that a
 13 subdivision?

14 A Yes, it was one that was tied up in the
 15 moratorium and then it was -- and when the moratorium was
 16 over, they submitted their plans in the process and got it
 17 approved and I was able to issue them a legal DEP approved
 18 permit.

19 Q Did they have to go through the sewage module
 20 phase or were they already there?

21 A Again, they were there waiting for the
 22 moratorium to be lifted, same as Mr. Corneal. They just
 23 waited.

24 Q So they had approved modules?

25 A Yes.

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1 Q They had approved modules?

2 A Yeah.

3 Q Did you go back out and reinspect their
 4 properties to make sure nothing was disturbed?

5 A No, there's been no work done out there.

6 Q So you didn't go back out and disturb -- or
 7 inspect their property, that's fine. How many lots?

8 A This Simpson's?

9 Q Yes.

10 A It was two brothers. They split like a
 11 hundred and some acres.

12 Q They split it into two big lots?

13 A Yes.

14 Q They're each going to build?

15 A The one brother is real -- wanted to do it
 16 right now, the other brother is going to eventually.

17 Q So this is an application for a septic system?

18 A Yes.

19 Q What about -- and you approved it, right?

20 A It was an approved lot.

21 Q Hickory Hats, Timothy Lynch, what's that?

22 A I don't recall, but sometimes I -- if these
 23 are a transfer of title or something, the person I talk to
 24 isn't necessarily the person that -- especially on a site
 25 check. It was just somebody called and said I -- my

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1 neighbor's -- I think my neighbor's septic is running over
 2 on my driveway or something like that. A site check is just
 3 I go out and physically walk over the land because there's
 4 been a complaint.

5 Q Let me ask you this: Do you keep copies of
 6 these activity records for yourself?

7 A Yes.

8 Q Now, these were produced to us by the
 9 township.

10 A Um-hum.

11 Q Or by your counsel anyway. And they start in
 12 February 2000 and they skip March 2000.

13 A Well, March of 2000 was a pretty bad winter.
 14 Maybe I didn't -- sometimes -- I work on an as-needed
 15 basis. If there's nothing going on there for three month,
 16 I --

17 MR. SHERR: Let her ask the question. I don't
 18 think she asked a question.

19 MS. MONTGOMERY: That's all right.

20 BY MS. MONTGOMERY:

21 Q The question is -- really the question is
 22 would you please search your records and provide me with --
 23 or provide your counsel to provide me with activity records
 24 that cover the period from June '99 to the present? We have
 25 nothing before February 2000 and then after October 2000 we

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1 have nothing until March 2001. So I'm just looking for the
 2 rest of these documents.

3 A Well, the March 2000 I'm pretty sure -- that
 4 was in the middle of the moratorium and the middle of winter
 5 and I just didn't do anything probably, but fall of '99 we
 6 could do that.

7 Q And what about after March 2001, any that you
 8 have after that?

9 A Well, we send these out at the end of the
 10 month and in April of 2001 in Jackson Township we probably
 11 didn't do anything there.

12 Q What about May?

13 A That's right now.

14 Q This is May 2001.

15 A I haven't done anything in Jackson Township in
 16 the last month or so. So it probably ...

17 Q There's a couple more documents I'm going to
 18 try to take you through real quickly.

19 MR. SHERR: Could I just call Ann at this

20 point -- could we go off the record.

21 (Discussion held off the record.)

22 BY MS. MONTGOMERY:

23 Q I just want to ask you one question real
 24 quickly here before we go back to these documents. You had
 25 testified that you wouldn't give Mr. Corneal a privy permit,

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1 right, when he requested it?
2 A Yes.
3 Q Could you have given him a permit for a
4 holding tank?
5 A Not for a new dwelling.
6 Q You can't do that?
7 A Not for a new dwelling. A holding tank for a
8 dwelling is if we have an existing dwelling -- say if the
9 farmhouse would have been on a half acre lot and we went out
10 there and tested for a -- and that system malfunctioned. We
11 went out and we couldn't find a spot to put in a new
12 approved system that meets regulations, then we have to
13 issue a holding tank. That's a Band-Aid. It's a last
14 resort. You know, we're ...
15 Q Thank you. I'm going to show you a document
16 that we'll mark as Parks Exhibit 5 and ask you if you've
17 ever seen it. It's a February 8, 2000 letter from Blazosky
18 Associates. I have copies for counsel and for the court
19 reporter.
20 (Letter dated 2/8/00 produced and marked as
21 Parks Exhibit No. 5.)
22 BY MS. MONTGOMERY:
23 Q Have you ever seen this document before?
24 A It was part of the first module.
25 Q Do you recall the substance of it?

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1 module, right?
2 A Yeah.
3 Q Did it influence your decision to approve the
4 module? You were satisfied that there weren't any wetlands?
5 A In a favorable way, yeah.
6 Q So you haven't encountered any wetlands on the
7 Corneal property in anyplace that the Corneals have sited
8 for placement of a septic system, correct?
9 A Not the five sites that I approved, no.
10 Q Does the township require a third party to
11 certify to you that there aren't any wetlands on a
12 particular proposed building site before you issue a sewage
13 module?
14 A Well, you see on --
15 Q Or before you approve a sewage module. Just
16 answer the question, does the township require you to get --
17 A It's one of the things you check off and
18 that's what -- the page that's missing on the module is the
19 check-off list of things you look at on here and one of them
20 is wetlands and floodplain. There's 16 items. You know,
21 they have to show where the sites are and the slope and
22 existing dwellings and surface waters and it comes down to
23 agricultural land, wetlands, floodplain, you know.
24 Q So in every application or in every request
25 for approval of sewage modules you would get a third party

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1 A It was a wetland report.
2 Q And what does it say --
3 A That none of the --
4 Q -- do you recall?
5 A The sites -- the way I remember it none of the
6 sites were wetlands.
7 Q None of the sites that you picked -- or that
8 were actually tested?
9 A (Witness nods head affirmatively.)
10 Q So did this occur -- this letter come after
11 you approved the module?
12 A I think it was part of the module.
13 Q It was part of the module?
14 A Yeah, I saw it before. I read through and I
15 -- my only question was -- at that time was, you know, the
16 lots they were talking about here -- see, they're talking
17 about five lots and it didn't -- that part didn't really
18 agree with the module but -- and I made a notation that I
19 was concerned about why they didn't coordinate, but, yeah, I
20 saw it before.
21 Q And the report essentially says that there
22 aren't any wetlands?
23 A There weren't any wetlands where it was
24 tested.
25 Q So you saw this before you approved the

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1 to go and certify that there aren't any wetlands?
2 A If somebody determined there was a question
3 about that.
4 Q Well, who determines if there's a question
5 about it? In other words, can you walk the property and say
6 I don't see any wetlands and be satisfied with that?
7 A I'm not certified to delineate wetlands.
8 Q This is a third party certification that there
9 aren't any wetlands essentially, right?
10 A And that's why I didn't have a problem with
11 it.
12 Q And all I'm asking you is you say there's a
13 section on the sewage module form to check off whether there
14 are any wetlands, but you said you'd get a third party in if
15 there was a question about it. So how would you check it
16 off if there weren't any wetlands if there wasn't a third
17 party performing some sort of consulting service and
18 certifying that there aren't any?
19 MR. SHERR: I'm going to object to the form of
20 the question. You can answer.
21 THE WITNESS: Probably -- I'm not sure what
22 you're asking.
23 BY MS. MONTGOMERY:
24 Q I'll ask you again. Do you ever check off
25 that -- a section on the module, their form, that there

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1 aren't any wetlands without having some sort of consultation
 2 from an outside party?
 3 **A Yeah, because there's a lot of lands that**
 4 **there's no way there could be a wetland there.**
 5 **Q Who determines that, you do?**
 6 **A It depends. Every lot is different. And if**
 7 **there's -- if it's a side of a mountain, you're not worried**
 8 **about that or -- you know --**
 9 **Q Who asked to have a third party sign off on**
 10 **the wetlands issue in this case?**
 11 **A I don't know.**
 12 **Q You have no idea?**
 13 **A It was just -- it appeared with -- it was with**
 14 **the module when I got it.**
 15 **Q Back to the other question. In some**
 16 **circumstances you can check off on the form no wetlands**
 17 **without getting anybody involved, right?**
 18 **A Well, what I -- basically what I do when I get**
 19 **the module, I'm not thinking about anything else. All I**
 20 **look at when I approve a module is are those 16 items on**
 21 **that map. And when the surveyor fills it out, if he -- it's**
 22 **his responsibility to mark the wetlands if they're there.**
 23 **Q That was my question. I was confused for a**
 24 **minute.**
 25 **A He can look -- he has a book --**

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1 **Q So the surveyor marks no wetlands and the**
 2 **surveyor is the one that fills out the module and -- right?**
 3 **A Sometimes they'll make a note in here, you**
 4 **know --**
 5 **Q On the module where there's a place to check**
 6 **off whether there's wetlands, the surveyor checks that off,**
 7 **correct, the survey says yes or no?**
 8 **A You just -- if it's -- you need to notate it**
 9 **on the map. And if it's not on there, I'm probably going to**
 10 **assume that -- that it wasn't unless I had a suspicion that**
 11 **-- you know, if I went down to do a pit and I walked up a**
 12 **swamp to my ankles, I'm going to -- and it's not on there**
 13 **I'm going to question that.**
 14 **Q Right. Did you question whether there were**
 15 **wetlands on Mr. Corneal's property?**
 16 **A I had that form with the module saying there**
 17 **wasn't so -- I'm not going to argue with the engineer.**
 18 **Q You weren't the one who raised it. You don't**
 19 **know whether any of the supervisors questioned whether there**
 20 **were wetlands and required a third party certification?**
 21 **A I thought Mr. Corneal did that for his own**
 22 **information. It just -- it was with the module.**
 23 **Q We're finished with Exhibit 5. Last exhibit.**
 24 **This is a -- it's going to be marked Parks Exhibit 6. I'll**
 25 **give you a copy. I'm going to need to use this one.**

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1 (Letter dated 3/24/00 produced and marked as
 2 Parks Exhibit No. 6.)
 3 BY MS. MONTGOMERY:
 4 **Q Did you have a minute to take a look at that?**
 5 **A Yeah.**
 6 **Q Have you seen this March 24, 2000 letter from**
 7 **Blazosky before?**
 8 **A No, I haven't.**
 9 **Q You have not, okay. So you've never seen this**
 10 **before. Did you know that the Army Corps of Engineers had**
 11 **made a further inquiry into this property?**
 12 **A No.**
 13 **Q Did you know that? You had no idea?**
 14 **A No.**
 15 **Q Did you know that -- did you ever hear of a**
 16 **complaint being filed in connection with the Corneal**
 17 **property related to wetlands?**
 18 **A I wasn't aware of it, but I wouldn't**
 19 **necessarily get notified of that unless it was, you know --**
 20 **is there a map that goes with this? What are we trying to**
 21 **decide here?**
 22 **Q I'm just trying to decide whether you know**
 23 **anything about the letter and the Army Corps of Engineers**
 24 **inquiring into wetlands on Mr. Corneal's property.**
 25 **A No, I didn't know anything about the Corps of**

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1 **Engineers being on Mr. Corneal's property. And I knew that**
 2 **the septic system there -- in fact, when Mr. Hewett called**
 3 **me about that, he asked and I recommended him -- there was**
 4 **some ruts in that septic area.**
 5 **Q By the farmhouse?**
 6 **A I said to make it last better you should -- on**
 7 **dry -- real dry time grade some topsoil over it so surface**
 8 **water wouldn't lay there. That system, I told him, is on**
 9 **the edge. I didn't actually -- it isn't coming to what I**
 10 **could call malfunctioning, but it's having problems because**
 11 **the soil in there isn't that great and -- but if you get the**
 12 **surface water away from it, you may -- and be careful with**
 13 **your usage it may last longer. That's what I told him.**
 14 **Q So there was some wet area around that**
 15 **farmhouse?**
 16 **A Well, it was just the grass grew good there**
 17 **and there was some mower ruts.**
 18 **Q Understood. So you don't know anything about**
 19 **anybody filing a complaint concerning wetlands on Mr.**
 20 **Corneal's property?**
 21 **A No.**
 22 **Q I don't know if I asked you this question, and**
 23 **I apologize if I already did, but did you ever discuss your**
 24 **approval of the sewer module for the Corneal property with**
 25 **the Huntingdon County Planning Commission?**

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1 A I don't think I ever talked to the planning
 2 commission.
 3 Q Nobody ever called you or inquired about --
 4 anything about it?
 5 A I don't recall of them, no. They rarely call
 6 me about -- unless there's maybe a mix-up on the number --
 7 some kind of a conflict that -- in the numbering of
 8 something and then they might call me to clarify it.
 9 Q What about any of the other supervisors? And
 10 if I already asked you, I apologize. I just don't
 11 remember. It's been a while. Did you discuss your approval
 12 of the sewer modules with any of the supervisors?
 13 A Not that I recall. Like I said, once I
 14 approve the module, the next thing I'm involved with it is I
 15 get a letter from DEP it's approved. Whether it takes a
 16 month or a year, why I'm sort of out of the loop at that
 17 point.
 18 Q What about Ann Wirth, did you discuss approval
 19 of the sewer modules with Ann Wirth, or the sewer module?
 20 It's one module.
 21 A Well, the first ones, you know, they had -- I
 22 approved them. I never said I didn't.
 23 Q But then later --
 24 A Talking to people. Again, I'm talking to a
 25 dozen people a day. Two years later I can't recall every

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1 Q A new module was submitted?
 2 A No, I think Tom Bowes, who is another sewage
 3 officer who had the soil scientist come to the site, I think
 4 he works with Terry Williams, Tom talked like he was going
 5 to modify the modules to show this.
 6 Q Have you been involved in that process at all?
 7 A I had to be away the day -- they had the soil
 8 scientist coming down. I didn't know it until the night
 9 before, or maybe two nights before, but I couldn't be
 10 there. Tom left them open. Tom and I will meet at a later
 11 date and look at those sites.
 12 Q One other question for you. I think you
 13 testified that Supervisor Wilson came with you when you went
 14 back out to look at the Corneal property?
 15 A Yeah, but he only stayed and was meeting Terry
 16 Williams about the driveway. The driveway when it was put
 17 in was humped up and they were concerned the water from the
 18 driveway was running out and washing the road. Tom never
 19 went back in the property when I -- that I was aware of.
 20 Q You were out there with him at one point,
 21 though --
 22 A We --
 23 Q -- that one day?
 24 A We stood at the end of the driveway waiting
 25 for Terry Williams one day.

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1 conversation.
 2 Q Did anybody in any capacity, whether with the
 3 supervisors or Ann Wirth or the Huntingdon County Planning
 4 Commission or anybody, ever discuss with you any instruction
 5 not to assist the Corneals in developing their property?
 6 A Definitely not.
 7 Q Nobody has ever given you any instruction like
 8 that?
 9 A I wouldn't pay any attention to it if they
 10 did. I look at my job as to try to move things along and
 11 get things done, not to hassle people and drag things out.
 12 You'll see on the --
 13 MR. SHERR: You've answered the question.
 14 BY MS. MONTGOMERY:
 15 Q So if I understand what you talked about
 16 earlier, there was an application -- a renewed application
 17 for an on-lot septic system maybe for approval of the
 18 modules that was submitted in connection with Terry
 19 Williams; is that right, on the Corneal property?
 20 A They had a soil scientist out and he checked
 21 for new sites.
 22 Q Was there a new application of any sort
 23 submitted?
 24 A No. We have no application until we have an
 25 approved module.

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1 Q Did you have any conversations about the
 2 Corneal's efforts to get buildings on their property and
 3 their efforts to get approval of their sewage module and so
 4 on and so forth with Mr. Wilson?
 5 A I think we just talked about meeting Terry and
 6 -- and about the things we had to do with him.
 7 Q Do you know anything about any interest that
 8 Mr. Wilson has in this property?
 9 A No.
 10 Q Do you know anything about it?
 11 A No.
 12 Q How long have you lived in -- do you live in
 13 Jackson Township?
 14 A No.
 15 Q Where do you live, which township?
 16 A Huntingdon. I live in the borough.
 17 Q How far is that away from the Jackson Township
 18 area?
 19 A Twenty mile.
 20 MS. MONTGOMERY: I don't think I have any
 21 other questions. Anybody else?
 22 MS. YANKANICH: I have some questions. I hope
 23 everybody can hear me. My throat is a little bit scratchy
 24 from the cold that I have.
 25

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CROSS-EXAMINATION

BY MS. YANKANICH:

Q After the moratorium was lifted, you said that you met with Larry Newton to discuss the Corneal property. What specifically did you discuss?

A Well, there's the illegal buildings that are being built on the property without proper permits.

Q When did you have this meeting?

A It's documented in the court. Do you know when those were? I don't know -- they were -- we've had at least three.

MR. SHERR: You're referring to conferences that occurred in Huntingdon County Court with Terry Williams?

THE WITNESS: Yes.

BY MS. YANKANICH:

Q Then prior to the moratorium did you ever have any contact with Larry Newton regarding the Corneal property?

A Prior to --

Q The moratorium being lifted, I'm sorry.

A I don't think so. I don't think Larry -- I don't recall of Larry getting involved with the Corneal property until the lawsuit started.

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Q So you did not receive any advice from Larry Newton regarding whether you should approve any sewer module that was submitted by David Corneal?

A I don't recall of Larry being involved until the lawsuit started.

Q Until the lawsuit started.

MS. YANKANICH: I don't have any further questions.

MS. THORP: No questions.

CROSS-EXAMINATION

BY MR. SHERR:

Q This meeting that Ms. Montgomery was just asking you about that you had with Terry Williams and Tom Wilson at the end of the driveway, when was that?

A Early April, late March.

Q Of 2001?

A March or April.

Q Of 2001?

A Yes.

Q And you referred to a letter you received from a soil scientist, I think.

A Yes.

Q You received that in the last couple days?

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A Yeah, it was a copy of what he sent to Mr. Corneal.

Q And the original was sent to Mr. Corneal?

A It has his name at the top, yeah.

Q It had David Corneal's name at the top then?

A Um-hum.

Q You have to say yes or no.

A Yes.

MR. SHERR: Thank you.

MS. MONTGOMERY: I do have one follow-up question.

THE WITNESS: I'm thinking the day Tom and I were there waiting for Terry Williams -- I'm thinking he didn't show up that day and I just left. I don't think I -- I don't think I met Terry that day.

REDIRECT EXAMINATION

BY MS. MONTGOMERY:

Q So it goes to what you asked. I'm just going to ask you one more question about Mr. Newton. Do you -- in connection with the Corneal property, have you been given advice by Larry Newton about how to deal with this property on which you relied?

A Well, the only time I remember of -- was the

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last meeting we had at the courthouse. At the end of it Terry Williams and Larry Newton were still in the courtroom talking. I went back in to specifically ask Terry Williams when I got the -- you know, we were concerned about the site there at the house being okay.

I went back in and specifically asked Terry, when I get the module, is this saying that you have permission to go in there and check this site and he said yes. And Terry -- and Larry was standing there at that time.

The meetings -- we had pre -- all the supervisors and the building officer and myself and Larry and Terry Williams had two different meetings at the courthouse --

Q What about --

A -- in a conference room.

Q What about prior to the moratorium, did you -- in connection with the Corneal's property, did you rely on any advice from --

A I can't think that I --

Q -- Larry Newton?

A I don't usually talk to Larry unless I've got a problem.

Q Did you have any problems with the Corneal property that you had to talk to him about?

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1 A Through '99 I didn't think there was a
 2 problem.
 3 Q Were you present at any meetings of the
 4 township solicitors wherein Mr. Newton gave advice to the
 5 supervisors about the Corneal property?
 6 A Just at those conference meetings that -- that
 7 Terry Williams was there.
 8 Q What about like regular meetings of the board
 9 of supervisors or special meetings of the supervisors, the
 10 township supervisors? Were you present at any meetings like
 11 that wherein Larry --
 12 A I would say no, I've never been to a
 13 supervisor's meeting where Mr. Corneal's property was
 14 discussed.
 15 Q What about in general the issue of the
 16 moratorium, were you present at any meetings where --
 17 A Well, again, I usually go to a township
 18 meeting -- that's what I'm going to tonight. If I've done a
 19 sewage module, helped with the sewage module, we have land
 20 development, I usually meet the surveyor there and we lay it
 21 out on the table and explain to the supervisors what we've
 22 done, what we are wanting approved. If there's a
 23 moratorium, there's none of that happening. So I -- I
 24 didn't go to any meetings during the moratorium.
 25 Q What about in connection with the proposed

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1 A (Witness shook his head negatively.)
 2 Q I'd just to like make a part of the record the
 3 order that Judge Rambo issued this morning. Have you had a
 4 chance to review it?
 5 A (Witness shook his head negatively.)
 6 Q Well, I'm going to give it to you and ask
 7 you --
 8 A Is this mine?
 9 Q And ask you to review it. Correct, that's
 10 your copy.
 11 A This stuff is mine to take or am I leaving
 12 this here or --
 13 Q Well, anything that's marked as an exhibit
 14 isn't yours to take. The copies you can take with you. I'm
 15 going to have Judge Rambo's order marked as Exhibit 7, Parks
 16 Exhibit 7.
 17 (Order produced and marked as Parks Exhibit
 18 No. 7.)
 19 THE WITNESS: It just means that I don't talk
 20 about it, correct?
 21 MS. MONTGOMERY: Correct.
 22 THE WITNESS: In plain language.
 23 BY MS. MONTGOMERY:
 24 Q In plain language.
 25 A Okay.

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1 subdivision ordinance, were you present at any meetings with
 2 the supervisors wherein Larry Newton gave advice about a
 3 proposed subdivision ordinance?
 4 A I can't recall that I was.
 5 Q Do you know of any other subdivisions that
 6 have been disapproved in Jackson Township besides Mr.
 7 Corneal's?
 8 MR. SHERR: Object to the form of the
 9 question.
 10 BY MS. MONTGOMERY:
 11 Q That have not been approved.
 12 A Well, there's been ones that weren't approved
 13 the first time, but then they just go back and they make the
 14 changes needed and you just keep working at it until we work
 15 it through.
 16 Q Which ones can you recall that weren't
 17 approved the first time?
 18 A Well, that Ken Miller, you know, this had been
 19 going on since I -- 10 years before I started out there he
 20 had been nibbling at this and bringing it back and doing
 21 stuff and ...
 22 Q Do you recall what the supervisor's concerns
 23 were with respect to the Miller subdivision?
 24 A Not right off the top of my head, no.
 25 Q You don't recall?

169

1 Q Do you understand that you're not supposed to
 2 talk to the other deponents --
 3 A I understand.
 4 Q -- or the other defendants about the substance
 5 of your deposition or their depositions?
 6 A Yes.
 7 MS. MONTGOMERY: That's it.
 8 (The deposition was concluded at 3:40 p.m.)
 9
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05/16/01

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1
2 COUNTY OF DAUPHIN :
3 : SS
4 COMMONWEALTH OF PENNSYLVANIA :
5 I, Teresa K. Bear, Reporter-Notary Public,
6 authorized to administer oaths within and for the
7 Commonwealth of Pennsylvania and take depositions in the
8 trial of causes, do hereby certify that the foregoing is the
9 testimony of BARRY PARKS.
10 I further certify that before the taking of
11 said deposition, the witness was duly sworn; that the
12 questions and answers were taken down stenographically by
13 the said Teresa K. Bear, a Reporter-Notary Public, approved
14 and agreed to, and afterwards reduced to typewriting under
15 the direction of the said Reporter.
16 I further certify that the proceedings and
17 evidence are contained fully and accurately to the best of
18 my ability in the notes taken by me on the within
19 deposition, and that this copy is a correct transcript of
20 the same.
21 In testimony whereof, I have hereunto
22 subscribed my hand this 31st day of May, 2001.
23
24 _____
25 Teresa K. Bear, Reporter
Notary Public
My commission expires
on April 13, 2003

Exhibit 7

CORNEAL, DAVID
02/22/01CORNEAL VS
JACKSON TOWNSHIPIN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIADAVID B. CORNEAL AND SANDRA
Y. CORNEAL,
PLAINTIFFS

VS

NO. 1:CV-00-1192

JACKSON TOWNSHIP, HUNTINGDON
COUNTY, PENNSYLVANIA, W. THOMAS
WILSON, INDIVIDUALLY AND IN
HIS OFFICIAL CAPACITY AS
SUPERVISOR OF JACKSON TOWNSHIP,
MICHAEL YODER, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS
SUPERVISOR OF JACKSON TOWNSHIP,
RALPH WEILER, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS
SUPERVISOR OF JACKSON TOWNSHIP,
BARRY PARKS, INDIVIDUALLY AND
IN HIS OFFICIAL CAPACITY AS
SEWAGE ENFORCEMENT OFFICER OF
JACKSON TOWNSHIP, DAVID VAN
DOMMELEN, INDIVIDUALLY AND IN
HIS OFFICIAL CAPACITY AS BUILDING
PERMIT OFFICER, ANN L. WIRTH,
INDIVIDUALLY AND IN HER OFFICIAL
CAPACITY AS SECRETARY OF JACKSON
TOWNSHIP, AND LARRY NEWTON,
INDIVIDUALLY AND IN HIS OFFICIAL
CAPACITY AS SOLICITOR TO JACKSON
TOWNSHIP,

DEFENDANTS

DEPOSITION OF: DAVID B. CORNEAL

TAKEN BY: DEFENDANTS

BEFORE: PATRICIA C. BARRETT,
REPORTER - NOTARY PUBLIC
DATE: FEBRUARY 22, 2001, 10:45 A.M.
PLACE: ECKERT SEAMANS
213 MARKET STREET, 8TH FLOOR
HARRISBURG, PENNSYLVANIA

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CORNEAL VS
JACKSON TOWNSHIP

4

APPEARANCES:

ECKERT SEAMANS

BY: BRIDGET E. MONTGOMERY, ESQUIRE
CHARLES M. SUHR, ESQUIRE

FOR - PLAINTIFF

MAYERS, MENNIES & SHERR LLP

BY: ANTHONY R. SHERR, ESQUIRE

FOR - ALL DEFENDANTS EXCEPT NEWTON

METTE, EVANS & WOODSIDE

BY: KATHRYN LEASE SIMPSON, ESQUIRE

FOR - DEFENDANT LARRY NEWTON

THOMAS, THOMAS & HAFER, LLP

BY: MICHELE J. THORP, ESQUIRE

FOR - DEFENDANT RALPH WEILER

ALSO PRESENT:

SANDRA Y. CORNEAL

STIPULATION

It is hereby stipulated by and between counsel for the respective parties that sealing, certification and filing are waived; and that all objections except as to the form of the question are reserved to the time of the trial.

DAVID B. CORNEAL, called as a witness, being sworn, testified as follows:

DIRECT EXAMINATION

BY MR. SHERR:

Q Mr. Corneal, good morning.

A Good morning.

Q As you know, we are here today to take your deposition in a matter which is currently pending in the U.S. District Court for the Middle District of Pennsylvania, in which you and your wife have brought an action against Jackson Township, its supervisors and other individuals.

Have you ever had your deposition taken before?

A I don't think so. I can't remember.

Q I just want to go over a couple ground

3

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WITNESS

| FOR DEFENDANT | DIRECT | CROSS |
|---------------|--------|-------|
|---------------|--------|-------|

David B. Corneal

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By Ms. Simpson 144

5

rules. I know that you are familiar with depositions, but just to go over a couple ground rules so we are sure of things.

You have been placed under oath, you are expected to answer truthfully. I ask that you wait until I am finished asking my question before giving your response. Likewise, I will try to wait until your response is completed before I ask you another question.

If you don't understand my question, please, ask me to clarify it. If you don't hear my question, please, ask me to repeat it. If you answer the question, we are going to assume that you both heard and understood the question.

You are represented here today by counsel, if you need to take to have a conference with your attorney, please, indicate that and we will accommodate it. If you need to take a break for any other reason, please, let us know that.

We are here today to take your deposition to find out your recollection in the events surrounding your complaint and the allegations within your complaint.

If you don't know something, please, let us know that, otherwise, give the response to the best of your knowledge. I ask that you give all your responses out loud orally, so that the court reporter can take it

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6

1 down. She can't take down nods of the head and that sort
2 of thing.
3 Did you review anything in preparation for
4 today's deposition?
5 A I looked at some of the documents, yes.
6 Q What documents did you look at?
7 A The complaint and some letters.
8 Q Do you know specially what letters you
9 looked at?
10 A No, it was about a week ago.
11 Q Anything else other than the complaint and
12 some letters?
13 A That I reviewed?
14 Q That you specifically reviewed in
15 preparation for today's deposition?
16 A No.
17 Q Other than any discussions which you had
18 with your attorneys, did you discuss today's deposition
19 with anyone?
20 A My wife.
21 Q Other than your wife, anybody else?
22 A No.
23 Q Are you currently taking any medications?
24 A 20 milligrams of Zestril for high blood
25 pressure.

7

1 Q Would that effect in any way your ability to
2 give testimony here today?
3 A I am not aware of it.
4 Q Is there any other reason that you are aware
5 of that you are somehow impeded from giving us the best
6 recollection that you can concerning the events
7 surrounding your complaint?
8 A Not that I am aware of.
9 Q Where do you currently reside?
10 A 5205 East Fairmount, F-A-I-R-M-O-U-N-T,
11 Avenue, State College, Pennsylvania.
12 Q How long have you resided there?
13 A Since 1983.
14 Q Who do you reside there with?
15 A My wife.
16 Q Anybody else?
17 A Our children, until they grew up and moved
18 out.
19 Q How many children do you have?
20 A Three.
21 Q They are all out of the house?
22 A Yes, they are all adults.
23 Q What is your social security number?
24 A 162-36-9300.
25 Q Your wife's full name?

8

1 A Sandy Cornell.
2 Q She is in the room with us today?
3 A Yes.
4 Q How long have you been married?
5 A We were married in 1968.
6 Q What is the highest level of formal
7 education that you completed?
8 A I completed a law degree.
9 Q When was that?
10 A In 1973.
11 Q Where was that from?
12 A Stetson University College of Law.
13 Q Have you had any formal education since the
14 completion of your law degree in 1973?
15 A Not any more than continuing education
16 courses for the law.
17 Q Do you currently practice law?
18 A No.
19 Q When did you stop practicing?
20 A Say 4 or 5 years ago.
21 Q Are you currently employed?
22 A Yes.
23 Q How are you employed?
24 A I teach Business Law and Entrepreneurship at
25 Penn State University.

9

1 Q How long have you been teaching at Penn
2 State?
3 A Since I think 1982, approximately, I am not
4 sure of the exact date.
5 Q Have you been teaching both Business Law and
6 Entrepreneurship since 1982?
7 A Initially Business Law and then
8 Entrepreneurship that started a few years later.
9 Q What is your position at the university?
10 A Assistant professor.
11 Q Do you consider this a full-time position?
12 A They consider it a full-time position, they,
13 meaning Penn State.
14 Q Very briefly, Business Law is a broad
15 subject, obviously, what specifically do you teach about?
16 A I teach an undergraduate course, with an
17 introductory course to what law is all about.
18 Q Do you have a textbook for that course?
19 A No.
20 Q How about Entrepreneurship, what does that
21 entail?
22 A It entails starting your own business.
23 Q What do you teach specifically?
24 A Starting your own business and picking a
25 business organization, financing the business.

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| | |
|---|---|
| <p style="text-align: right;">10</p> <p>1 Q Is there a textbook for that course?</p> <p>2 A No.</p> <p>3 Q Are there written materials that are used in</p> <p>4 either of these courses?</p> <p>5 A Written materials? No, not really, I have</p> <p>6 some handouts in one or two of the courses, but.</p> <p>7 Q Are the students asked to read anything?</p> <p>8 A No.</p> <p>9 Q How many courses do you currently teach?</p> <p>10 A Three.</p> <p>11 Q What are the titles of those courses?</p> <p>12 A Business Law 243, Business Administration</p> <p>13 250 and Business Administration 497-A.</p> <p>14 Q When you practiced law, were you a member of</p> <p>15 the firm?</p> <p>16 A I was a member of several firms during the</p> <p>17 period I practiced law.</p> <p>18 Q Most recently, what firm were you a member</p> <p>19 of?</p> <p>20 A I was a sole practitioner.</p> <p>21 Q Prior to that, were you a member of the</p> <p>22 firm?</p> <p>23 A We had our own firm, three or four guys.</p> <p>24 Q What was the name of that firm?</p> <p>25 A Well, the last name would have Kalman,</p> | <p style="text-align: right;">12</p> <p>1 partner and that was his specialty so he would handle --</p> <p>2 it would be referred to him.</p> <p>3 Q So you, yourself, wouldn't handle matters</p> <p>4 dealing with land use, you would refer them to a partner</p> <p>5 or to another attorney, is that correct?</p> <p>6 A Right.</p> <p>7 If it was a simple question that you heard</p> <p>8 an answer to before or knew the answer to before, you</p> <p>9 would answer it; but if it was more complicated, it would</p> <p>10 be referred to somebody else that did that.</p> <p>11 Q How about other areas of municipal law, did</p> <p>12 you consider yourself to be practicing in other areas of</p> <p>13 municipal law other than land use?</p> <p>14 A As I said, I didn't really practice in land</p> <p>15 use. I would say not, no.</p> <p>16 Q Are you familiar with the Pennsylvania</p> <p>17 Municipal Planning Code?</p> <p>18 A I know of it.</p> <p>19 Q When you say you know of it --</p> <p>20 A I know it exists.</p> <p>21 Q Other than knowing it exists, do you know</p> <p>22 any of the details contained within it or the cases</p> <p>23 decided thereunder, are you familiar with them?</p> <p>24 A Well, the only thing that I -- no, the</p> <p>25 answer would be basically not, except, I recently had</p> |
| <p style="text-align: right;">11</p> <p>1 Corneal, Mason, I think Mason, that was the last name.</p> <p>2 Q What type of law did you practice at the</p> <p>3 time that you were practicing law?</p> <p>4 A It was general, business mainly.</p> <p>5 Q Did you consider yourself to have a</p> <p>6 specialty?</p> <p>7 A Not really. In a small town you really</p> <p>8 can't. I would say the specialty was, if you had to say a</p> <p>9 specialty, it was contract law, business-related</p> <p>10 contracts.</p> <p>11 Q Did you ever practice in the area of land</p> <p>12 use?</p> <p>13 A The only time I ever did that was a case of</p> <p>14 a friend of mine that you were involved in and that was</p> <p>15 Wesley Young.</p> <p>16 Q It was the Young versus Harris Township</p> <p>17 case?</p> <p>18 A Right.</p> <p>19 Q So would I be correct then in stating you</p> <p>20 did not get involved with land use matters while you</p> <p>21 practiced law, other than to the extent you got involved</p> <p>22 with them in that Young case?</p> <p>23 A I wouldn't say that. I had business clients</p> <p>24 that had questions about land use; and generally at that</p> <p>25 time that we would have done anything, Ron Lucas was a</p> | <p style="text-align: right;">13</p> <p>1 discussions about the Naylor case, which affects things or</p> <p>2 could affect things. Other than that, no, I have never</p> <p>3 read the Municipal Planning Code.</p> <p>4 Q In the discussion that you recently had</p> <p>5 concerning the Naylor case --</p> <p>6 MS. MONTGOMERY: Objection.</p> <p>7 MR. SHERR: That is what I was going to get</p> <p>8 to. Give me a chance.</p> <p>9 BY MR. SHERR:</p> <p>10 Q Did you have those discussions with anyone</p> <p>11 other than your attorneys?</p> <p>12 A No.</p> <p>13 Q Other than your residence and the property</p> <p>14 which forms the basis of the lawsuit that we are here</p> <p>15 about today, do you own other properties?</p> <p>16 A Yes.</p> <p>17 Q How many other properties do you own?</p> <p>18 A You would have to ask me -- it would be</p> <p>19 easier to tell you where they are.</p> <p>20 Q Do it that way then. Can you tell me what</p> <p>21 other properties you own other than your residence and the</p> <p>22 property that forms the basis of this lawsuit?</p> <p>23 A I own a property at 1445 West College</p> <p>24 Avenue, I own a property at -- my wife and I, when I say</p> <p>25 I, my wife and I, I own a property at 1510 Martin Street.</p> |

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14

1 I own a property in -- outside Hershey,
 2 Pennsylvania, which is in Lower -- I forget the name of
 3 the Township. It is just a tract of land, but near
 4 Hershey; and we own a property in Key West, Florida at 816
 5 Eaton Street; I jointly own a property with my youngest
 6 son at 822 Eaton Street, Key West. I think that is it.
 7 Q Just taking these properties one at a time.
 8 MS. MONTGOMERY: I am going to object. I
 9 have given you some leeway, considered that this is a
 10 discovery deposition, but what does that have to do with
 11 this case? This is his personal information, I don't
 12 think you are entitled to ask him about all this stuff.
 13 MR. SHERR: One of the reasons I am going to
 14 get into the other properties, I am not going to get into
 15 them in great length, is to find out whether or not he has
 16 been involved in developing other properties.
 17 MS. MONTGOMERY: Ask him that question,
 18 then.
 19 MR. SHERR: I will.
 20 MS. MONTGOMERY: Maybe it is an appropriate
 21 question, maybe not, but it is beyond the scope of this
 22 lawsuit for you to be asking him about his other business
 23 affairs and that sort of thing, you have got to tie it in
 24 and tie it in pretty quickly, or, you know.
 25 BY MR. SHERR:

15

1 Q The property at 1445 West College Avenue, is
 2 that property developed?
 3 A Commercial building.
 4 Q When you purchased it, did you purchase it
 5 with a commercial building on it?
 6 A No.
 7 Q The commercial building that is on it, did
 8 you have to receive approval from any local authorities to
 9 build that building on the property?
 10 A I hired an architect.
 11 Q I don't know if that was responsive to my
 12 question.
 13 My question was, did you have to get any
 14 approval from any local authorities?
 15 A Obviously, whenever you build a building,
 16 you have to have approvals, the approvals were obtained by
 17 the architect.
 18 Q Judging by that answer, you had nothing to
 19 do with obtaining the approvals other than hiring an
 20 architect?
 21 A No, of course, I discussed it with the
 22 architect. It was in 1979, I don't remember exactly what
 23 transpired between us or my involvement in that, I don't
 24 remember.
 25 Q How about the property at 1510 Martin

16

1 Street, is there anything --
 2 A It is an existing commercial building.
 3 Q The question was: Is there anything on that
 4 property and your answer was that you purchased it with a
 5 building on that property?
 6 A Right.
 7 Q Did you ever go through any kind of approval
 8 process with respect to a local authority on that
 9 property?
 10 A What do you mean, a local authority?
 11 Q A municipality.
 12 A Well, we put an addition on that property
 13 and so we hired an engineering firm to do that; but it was
 14 just a matter of expanding a building that was already
 15 existing.
 16 Q You indicated that you owned a property
 17 outside of Hershey and I believe in giving your answer you
 18 said it was a tract of land.
 19 A 206 acres.
 20 Q That is undeveloped?
 21 A Right.
 22 Q Have you made attempts to develop that land?
 23 A No. I have made attempts to sell the land.
 24 Q Is there a reason you haven't sold the land?
 25 A I just put it on the market a month ago.

17

1 Q When did you purchase it?
 2 A A long time ago. It was probably somewhere
 3 in the late '70s.
 4 Q With respect to these three properties, you
 5 indicated that you own them with your wife, is that
 6 correct?
 7 A Yes.
 8 Q Do you have ownership interests in any other
 9 properties, excluding the ones in Florida, with any other
 10 entity?
 11 A No, not that I can remember right now. I am
 12 trying to think. I don't believe so, aside from the
 13 properties we are talking about here. You said excluding
 14 Florida, you also exclude the properties in Jackson
 15 Township?
 16 Q Yes.
 17 A No.
 18 Q Do you have any ownership interest in any
 19 corporation or other business entity which owns property?
 20 MS. MONTGOMERY: Objection, just way beyond
 21 the scope of this lawsuit. This isn't hunting season on
 22 his entire personal life and business life, this is a
 23 lawsuit about Jackson Township property.
 24 MR. SHERR: Are you instructing him not to
 25 answer?

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18

1 MS. MONTGOMERY: I am objecting to it and I
 2 am asking you not to do this in this deposition, not to
 3 make it contentious, asking him questions that don't have
 4 anything to do with the lawsuit. If you can explain what
 5 it has to do with the lawsuit, I will be reasonable about
 6 it, I am very willing to do that.

7 MR. SHERR: Depending upon whether he owns
 8 any other property and had made attempts to develop any
 9 other property --

10 MS. MONTGOMERY: He said, no. He gave you
 11 the answer to those questions.

12 MR. SHERR: He hasn't given me the answer to
 13 this yet, so I don't know.

14 MS. MONTGOMERY: Like I said earlier, this
 15 may be marginally somehow likely to lead to developing
 16 discoverable evidence that he may have developed other
 17 property. Ask him that question and stay out of his
 18 private business affairs, otherwise, that don't have
 19 anything to do with the development of Jackson Township
 20 BY MR. SHERR:

21 Q If you could answer my question.

22 A The question was?

23 Q Do you have an ownership in any corporation
 24 or other entity which owns property?

25 A Other than Florida you said, is that right?

19

1 Q Yes, I am only interested -- to limit this,
 2 I am only interested in properties in Pennsylvania and
 3 your attempts to develop or be involved with developments
 4 in Pennsylvania.

5 A No.

6 Let me rephrase it. No, not that I can
 7 recall. As you asked the question, I can't think of
 8 anything at this moment that I have an interest in.

9 We have several corporations that operate
 10 the properties that are identified, they don't own the
 11 properties.

12 Q Other than the property which forms the
 13 basis of this lawsuit and excluding properties outside of
 14 this Commonwealth and other than what you have already
 15 talked about, have you been involved in the development of
 16 any other properties?

17 A We had a property in Boalsburg that we had
 18 the engineer subdivide and we sold that off.

19 Q Again, excluding the property that forms the
 20 basis of this lawsuit, have you ever personally applied
 21 with any local municipality for building permits?

22 A Well, you have to apply. Obviously, the
 23 owner of the property has to sign the application, so the
 24 applications were normally prepared by the engineer or
 25 architect and, obviously, the owner signed them, which

20

1 would have been myself and my wife.

2 Q What I am searching for here is involvement
 3 by you other than just signing it, where you actually went
 4 to the Township or other municipality and had involvement
 5 with the local officials, are there any instances like
 6 that?

7 A I have been in townships before, I mean the
 8 borough, where we were -- in our home we were building a
 9 fence around an area and we needed to get approval for
 10 that.

11 I probably accompanied an architect or
 12 engineer on these two properties that I identified
 13 previously to a Township meeting or two; but like I said,
 14 that was a long time ago.

15 Q Have you ever been the party to a lawsuit
 16 other than this one?

17 A I want to say, yes, and I am trying to think
 18 of what it was. You said other than this one. For
 19 example, I just got served by Old Guard Insurance, who is
 20 representing one of the supervisors who is asking for a
 21 declaratory judgment as to whether they have coverage or
 22 not.

23 You mean in Pennsylvania, parties to a
 24 lawsuit?

25 Q We could limit it to Pennsylvania -- no,

21

1 let's just expand that to any lawsuit.

2 A Well, we have had a family fight in Florida
 3 over some properties and that ended up in litigation.

4 Q That litigation was in Florida?

5 A Yes. That family fight then got extended
 6 here in Pennsylvania, just slightly.

7 Q Was there a lawsuit in Pennsylvania?

8 A There was a lawsuit regarding my mother's
 9 will.

10 Q Any other lawsuits to which you were a party
 11 other than what you have mentioned?

12 A Not that I can remember.

13 Q Turning to the property which forms the
 14 basis of this lawsuit which is located in Jackson
 15 Township. This property was purchased jointly, you and
 16 your wife?

17 A Yes.

18 Q When did you purchase the property?

19 A I believe it was around October of '98.

20 Q How much did you purchase it for?

21 A \$160,000. Total price was actually
 22 \$170,000, but 10 was attributable to personal property.

23 Q Who did you purchase it from?

24 A Paul and Catherine Michael.

25 Q How did you first hear about the property?

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22

1 A They were friends of mine and indicated they
2 were going to sell what they referred to as their farm.
3 Q What was your purpose for purchasing the
4 property?
5 A I was thinking that it would be a nice
6 place, my wife and I were both artists at that point and
7 still are, and it would be a nice place maybe to do
8 painting and put perhaps a summer house on it or something
9 like that.
10 Q At the time that you were considering
11 purchasing the property, did you have any other purposes
12 for the property in mind other than to do some painting
13 and to put a summer home on it?
14 A Other purposes at that moment?
15 Q At the time that you were considering
16 purchasing the property.
17 A Obviously, I was looking at a 95 acre tract
18 of ground and I didn't think I needed all of that.
19 Q I am not sure that that is really responsive
20 though.
21 Were you thinking about doing anything else
22 with the property when you were considering purchasing it,
23 other than using it as a nice place to paint and as a
24 summer home?
25 A Well, as I said, we didn't need 95 acres,

23

1 and it was naturally divided by a power line; and so
2 without having investigated it, certainly the thought ran
3 through my mind that perhaps I would sell off a piece of
4 it or two or even divide it up for lots for my children. I
5 didn't have any real plan, there was a lot of things that
6 were possible.
7 Q Do you recall what the asking price for the
8 property was?
9 A I paid them what their asking price was.
10 Q So there was no negotiations over the price?
11 A No negotiations. I thought it was a fair
12 price.
13 Q How did you make that determination that it
14 was a fair price?
15 A They gave me an appraisal that they had
16 done.
17 Q Do you still have that appraisal?
18 A I will say probably, somewhere in the file.
19 Q Do you know what Paul and Catherine Michael
20 used this property for?
21 A They had their children living there at
22 different times and they used it as a weekend retreat for
23 themselves.
24 (Recess.)
25 BY MR. SHERR:

24

1 Q Other than reviewing the appraisal, which
2 was provided to you by the Michaels, did you do any other
3 investigation prior to purchasing the property?
4 A Aside from walking on the property, that is
5 all I did.
6 Q Were there any structures on the property
7 when you were considering purchasing it?
8 A A house and a barn.
9 Q Did the property consist of one solitary lot
10 to your knowledge at the time that you were considering
11 purchasing it?
12 A One tract of ground.
13 Q Were you aware as to whether there were any
14 attempts to subdivide the property prior to you purchasing
15 it?
16 A Well, I was aware that -- no, there was no
17 attempts to subdivide it. I was aware that a single lot
18 had been subdivided off by a previous owner, but I don't
19 know who that owner was.
20 Q The single lot which had been subdivided off
21 of the property, was that still part of the property that
22 you were going to purchase or had that been sold already?
23 A That was developed into a homesite years
24 ago.
25 Q Were you aware that a lot had been

25

1 subdivided off of this tract of ground prior to your
2 purchase?
3 A Yes, sure.
4 Q How did you become aware?
5 A It was obvious, there was somebody living
6 there with their three or four unused cars in the yard.
7 Q How did you know that that was part of the
8 same tract of land?
9 A Because it was obvious that it was cornered
10 out; and somebody told me, I don't remember whether the
11 Michaels told me or somebody, it was rather are obvious.
12 Q Other than walking the property and
13 reviewing the appraisal, did you do anything else, any
14 other investigation into the property prior to purchasing
15 it?
16 A No.
17 Q Was there a real estate broker and/or agent
18 involved with the sale to you of this property?
19 A No.
20 Q Were you represented in the sale of this
21 property?
22 A Was I represented?
23 Q Yes.
24 A No.
25 Q Were the Michaels represented?

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1 A No.
2 Q Did you sign an agreement of sale?
3 A Yes.
4 Q Do you still have a copy of that agreement
5 of sale?
6 A I don't remember if I have it or not,
7 probably somewhere.
8 Q Did the agreement of sale have any
9 conditions in it?
10 A What kind of conditions?
11 Q Any conditions?
12 A No conditions.
13 Q Did the agreement of sale provide for
14 anything other than you would be purchasing the property
15 and the Michaels would be selling the property?
16 A Not really, no. There was a tractor
17 involved. That is why I said part — it was a John Deer
18 tractor involved. Prorated taxes and the typical things
19 that we do with properties.
20 Q You indicated that you purchased this
21 property in October of '98, is that when you closed on the
22 property?
23 A Yes.
24 Q Had you ever purchased property in Jackson
25 Township prior to October of '98?

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1 A No.
2 Q Had you ever had any dealings with Jackson
3 Township officials and/or employees prior to October of
4 '98?
5 A I don't believe so, I can't remember ever
6 having.
7 Q Prior to purchasing the property in October
8 of '98, did you personally know W. Thomas Wilson?
9 A No.
10 Q Prior to purchasing the property, had you
11 had any prior dealings with Huntingdon County?
12 A Well, I don't know what you mean prior
13 dealings.
14 Before I went to law school, I went over and
15 I clerked for James Himes and his father, who was the
16 judge, Swirls Himes, but that was back in 1969, '68. Of
17 course, I am sure over the years every once in a great
18 while I was in Huntingdon County on some minor law thing
19 but I don't think very often. Most of the time if I had
20 something over there, I referred it to Jim Himes.
21 Q After you purchased the property in October
22 of '98, did you take any actions with respect to the
23 property?
24 A What do you mean actions?
25 Q Well, let's break that down, that was not a

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1 very good question.
2 When did you first decide to subdivide the
3 property?
4 A As I said, I contemplated that the
5 possibility was there at the beginning, because we didn't
6 really want the house and the barn. So probably in the
7 spring of the year, 1999, we started seriously thinking
8 about that. I am just guessing, a ballpark.
9 Q So am I accurate in stating that prior to
10 purchasing the property or at or around the time that you
11 purchased the property, you intended to build something on
12 the property?
13 A Yes.
14 Q Was that before you purchased the property?
15 A That we contemplated building?
16 Q Yes.
17 A Yes.
18 Q What did you contemplate building?
19 A As I said, we are both artists, and we were
20 thinking of a summer home and an art studio.
21 This was a vague thought at that time, it
22 wasn't a plan.
23 Q When did it become more than a vague thought
24 and moved into a plan?
25 A In the spring of '99 we started thinking

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1 seriously about recovering some of our investment and
2 using that money to build something.
3 Q The thoughts about recovering some of your
4 investment and building something with that money is the
5 contemplation that you would subdivide and sell part of
6 the property off?
7 A Yes.
8 Q What is the first action that you took with
9 respect to selling part of the property?
10 A Well, we decided that it needed a survey,
11 current survey.
12 Q Prior to getting a current survey, did you
13 personally do any research with respect to what you needed
14 to do to sell part of the property off?
15 A No, that is part of the discussion I had
16 with the surveyor.
17 Q So who was the surveyor that you had a
18 discussion with?
19 A David Simpson.
20 Q How was it that you got Mr. Simpson?
21 A Because Michaels had used him before.
22 Q So then you had a discussion with
23 Mr. Michaels about —
24 A No, some of the documents —
25 Q Let me finish the question.

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1 A Sorry.
 2 Q Did you have a discussion with Mr. Michaels
 3 about subdividing the property?
 4 A No.
 5 Q How was it then that you got to Mr. Simpson
 6 through Mr. Michael?
 7 A Mr. Michael had used Mr. Simpson before and
 8 recommended him.
 9 Q Do you know why he recommended Mr. Simpson
 10 to you, he, being Mr. Michael?
 11 A Obviously, he was pleased with Mr. Simpson's
 12 work.
 13 Q Do you know why he felt the need or even
 14 wanted to recommend the surveyor to you?
 15 A I don't know if I asked him or -- I don't
 16 know. I know that he had -- when I bought the property,
 17 he had given me documentation of things that related to
 18 the property about planting trees and things that he had
 19 -- and his tractor manual and all this other stuff. Part
 20 of that was some work, survey work that Simpson had done.
 21 I don't know if that is what stimulated Simpson or it was
 22 a discussion with Michael.
 23 Q Where is Mr. Simpson located?
 24 A He lives in Huntingdon, outside of
 25 Huntingdon.

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1 Q Do you recall when you first contacted
 2 Mr. Simpson?
 3 A As I said, sometime in the spring of '99 I
 4 believe.
 5 Q When you first contacted him, did you
 6 indicate to Mr. Simpson why you were contacting him?
 7 A Yes, I said I wanted him to survey the land
 8 and I wanted to divide off the farm, the acreage. At that
 9 time I was contemplating some lots for my children.
 10 Q What did he tell you?
 11 A He said, sure, he would be happy to do it.
 12 Q Did you have a conversation with Mr. Simpson
 13 at or around that time with respect to what would have to
 14 be done to subdivide the property?
 15 A Well, what he said was, if you are going to
 16 subdivide it, you are going to need to find sewage
 17 locations, on-site sewage.
 18 Q Other than telling you that you needed to
 19 find on-site sewage locations, did he tell you anything
 20 else that you would need to do with respect to subdividing
 21 the property?
 22 A No.
 23 Q Do you have an understanding as to why he
 24 told you, you needed to find on-site sewage locations?
 25 A Well, my understanding was that if you had a

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1 lot, you had to be able to provide on-site sewage for that
 2 lot. So if I was going to divide something off, I needed
 3 on-site sewage.
 4 Q Did you have an understanding at that time
 5 what required you to have on-site sewage on a lot?
 6 A What do you mean?
 7 Q What rule or regulation or statute?
 8 A He said that the SEO, which is the sewage
 9 enforcement officer, needed to do test pits at different
 10 locations where we were contemplating lots.
 11 Q Did you inquire as to why you had to have
 12 areas where you could have on-site sewage on a particular
 13 lot?
 14 A Well, you can't build a house on a lot that
 15 doesn't have on-site sewage.
 16 Q You had that knowledge that you couldn't
 17 build a house on a lot without on-site sewage?
 18 A You had to have sewage disposal, either
 19 public or on-site, and there was no public available, so
 20 we had to have sites that were approved for on-site
 21 sewage.
 22 Q Again, did you have any understanding as to
 23 where those requirements were contained, what required you
 24 to have those on-site sewage on any particular lot?
 25 A He said, DEP, Department of Environmental

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1 Protection, he told me had those regulations.
 2 Q Did you have familiarity with those
 3 regulations prior to this conversation with Mr. Simpson?
 4 A No, I never had on-site septic on any
 5 property I ever owned.
 6 Q Did you make any inquiries at that time as
 7 to the requirements of on-site sewage?
 8 A He said that the SEO officer would be the
 9 one that would meet me on the site or meet us on the site
 10 and dig test pits and would decide whether the soil was
 11 appropriate for on-site systems.
 12 Q Prior to this time, this conversation with
 13 Mr. Simpson, had you ever been involved in any way with
 14 on-site sewage systems?
 15 A No.
 16 Q Did Mr. Simpson tell you who the sewage
 17 enforcement officer was?
 18 A Probably. I think he did.
 19 Q Do you recall that he did?
 20 A I would say that he probably told me who it
 21 was. I don't remember, but I would suspect that that is
 22 where the information came from.
 23 Q Who did he tell you the sewage enforcement
 24 officer was?
 25 A Barry Parks.

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1 Q Other than finding sewage locations, did
2 Mr. Simpson tell you, you would have to do anything else
3 in order to divide the property and sell part of it?
4 A He said that we would submit those things,
5 the sewage things to the Township.
6 Q Did he tell you why you would have to submit
7 them to the Township?
8 A No, but that was the procedure.
9 Q He told you that was the procedure?
10 A That was the procedure that he used he said.
11 Q Did he indicate that he had other dealings
12 with the Jackson Township officials with respect to
13 dividing lots?
14 A Never talked to him about that.
15 Q Did you understand that you would have to be
16 involved with the process or was it your understanding
17 that Mr. Simpson would take care of this for you?
18 A No. He had indicated that he would do the
19 drawings, but he didn't want to go to the meetings or do
20 anything to walk things through, that I would have to do
21 it.
22 Q Did he tell you about any other requirements
23 for dividing property in Jackson Township, other than
24 finding sewage locations?
25 A No. I say no, not that I recall, I can't

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1 recall that he had said anything about that.
2 Q What was your understanding as to what
3 Mr. Simpson would do for you?
4 A A survey.
5 Q Anything else?
6 A A boundary survey and then eventually divide
7 things up into lots, whatever lots we decided on based on
8 the SEO's finding of on-site septic suitability.
9 Q Other than doing a boundary survey and
10 drawing up lots once you divided what lots you wanted, did
11 you have expectations that Mr. Simpson was going to do
12 anything else with respect to this property?
13 A I didn't have expectations, because I didn't
14 know exactly what was required with on-site septic, but he
15 did prepare the sewer modules, he called them sewer
16 modules, for the SEO's findings that would fit with the
17 map that he would prepare.
18 Q At what point did you learn that he was
19 going to prepare sewage modules?
20 A I think when he prepared them.
21 Q Did you ask him to prepare sewage modules?
22 A I didn't know about sewage modules.
23 Q So then you didn't ask him to prepare them?
24 A No, I didn't; but he did it as I guess a
25 standard operating procedure as what he did as part of his

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1 function.
2 Q Did you make any inquiry to Mr. Simpson as
3 to why you needed sewage modules?
4 A The answer was obvious, because the SEO had
5 checked the sites and you needed DEP approval and my
6 understanding was from Simpson, the sewer modules would be
7 signed by the Township and then submitted to DEP for final
8 approval.
9 Q Who contacted the SEO?
10 A Probably, I did. He had given me the guy's
11 name, probably I did. He could have contracted him first,
12 I don't know.
13 Q Do you recall contacting Mr. Parks?
14 A I know that I called Mr. Parks on several
15 occasions. I can't remember if the initial contact was by
16 myself or Mr. Simpson. I would suspect it was probably by
17 me.
18 Q How did you get in touch with him? How did
19 you learn how to get in touch with him?
20 A I don't remember. I would be guessing as to
21 how it happened, I don't remember how it happened.
22 Q I don't want you to guess.
23 Do you remember the first contact that you
24 had with Mr. Parks?
25 A No. It was a telephone conversation, but I

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1 don't remember it exactly.
2 Q Do you recall telling Mr. Parks what you
3 intended to do with the property?
4 A I said we were going to do some subdividing
5 and needed to find suitable spaces for on-site septic.
6 Q The reason that you told him you needed to
7 find suitable spaces for on-site septic was because Mr.
8 Simpson told you, you needed that?
9 A Yes.
10 Q Did you contact anybody else other than
11 Mr. Parks and Mr. Simpson with respect to these initials
12 efforts to subdivide the property?
13 A Yes.
14 Q Who else did you contact?
15 A I contacted Eagle Construction and
16 Mr. Wilson.
17 Q How was it that you came to contact Eagle
18 Construction and Mr. Wilson?
19 A Well, it is a very small area over there and
20 he had a construction site less than a half mile from the
21 site. And I don't know if Simpson recommended him or
22 Parks recommended him; but I knew I needed a backhoe, so
23 he was the guy with a backhoe nearby.
24 Q Would you have any records and/or document
25 which would reflect who referred you to Mr. Wilson and

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1 Eagle Construction?
2 A No.
3 Q Who initially contacted Eagle Construction
4 and/or Mr. Wilson?
5 A I would suspect I did.
6 Q Do you recall when it was that you contacted
7 Mr. Wilson?
8 A It would have been probably the late spring,
9 early summer of '99.
10 Q Was this a phone conversation, your first
11 contact?
12 A I don't know.
13 Q Can you tell me the gist of this first
14 contact that you had with Mr. Wilson?
15 A I said we wanted to do some work on the
16 property and whether he would be available to provide that
17 work.
18 Q What did he indicate?
19 A Sure.
20 Q When did you become aware that Mr. Wilson
21 was a supervisor in Jackson Township?
22 A I don't think it was until a month or two
23 later.
24 Q How did you become aware?
25 A I think he told me.

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1 Q Do you recall in the context of what
2 conversation you were having at the time that he told you?
3 A We were on-site, and I don't know, it came
4 up that he was a supervisor at Jackson Township.
5 Q Do you recall Mr. Wilson telling you that
6 there was going to be a moratorium on development in
7 Jackson Township?
8 A Absolutely not.
9 Q So it is your testimony that Mr. Wilson
10 never told you that there was going to be a moratorium on
11 development in Jackson Township?
12 A Absolutely not.
13 Q What is your testimony then?
14 A My testimony is that. I said he absolutely
15 did not tell me that.
16 Q Just so we are clear, I believe you may have
17 misheard me or something. My question to you was: Is it
18 your testimony that Mr. Wilson did not tell you about a
19 moratorium on development in Jackson Township?
20 A That is absolutely correct. He did not tell
21 me about a moratorium or any proposed moratoriums in
22 Jackson Township.
23 Q Did Mr. Wilson tell you that Jackson
24 Township was working on a subdivision ordinance?
25 A No.

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1 Q Did you enter into a written agreement with
2 Mr. Simpson?
3 A I don't believe so.
4 Q Did you enter into a written agreement with
5 Mr. Wilson?
6 A No.
7 Q Did you enter into a written agreement with
8 Eagle Construction?
9 A No, not that I can recall. I don't
10 remember, I think it was -- when outside contractors give
11 you prices and you say, okay, go ahead, that was, I think
12 -- I don't remember anything in writing about it, about a
13 contract.
14 Q What was it that you hired Mr. Wilson and
15 Eagle Construction to do?
16 A Well, initially there was some debris that I
17 wanted him to remove from the property where some farmers
18 had thrown stuff over a hill into a gully. That never
19 came about, he never completed that task.
20 Q Why not?
21 A I don't know, but he didn't get to it and we
22 kind of ignored that after awhile.
23 Then I hired him really to send a backhoe in
24 to dig the test pits with the SEO and myself present.
25 Q Did he operate the backhoe?

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1 A No.
2 Q Who was operating the backhoe?
3 A I believe that it was his nephew; but I
4 don't know the man's name, I don't recall his name.
5 Q When was this done?
6 A It was done probably the summer, sometime
7 in the summer of '99, I don't recall exactly when.
8 Q Was anybody else present, other than
9 Mr. Parks, who is the SEO, yourself, and the backhoe
10 operator at the time you were digging these test pits?
11 A Not that I know of, not that I recall.
12 Q Who made the determination where the test
13 pits would be dug?
14 A It was kind of a combination of Simpson and
15 I, because what we were contemplating subdividing, the
16 lots, kind of dictated where you try to find on-site
17 septic.
18 Q At the time that you were digging test pits,
19 how many lots did you contemplate you would be dividing
20 the property into?
21 A I think that it was five or six, because we
22 had the farmhouse and barn and three lots, one for each of
23 our children, the residue for ourselves and another lot
24 along the road. That was all tentative.
25 Q What was the result to your knowledge of

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1 these test pits?
 2 A Well, we did, I don't know, I forget how
 3 many we dug; but we ended up with five or six approved
 4 sites.
 5 Q Were there any records indicating how many
 6 test pits were dug and how many sites were approved?
 7 A Well, there is a record of all the sites
 8 that were approved and the Township has that and so do you
 9 on the sewer modules.
 10 Q Is there any record of sites which were not
 11 approved?
 12 A Not that I know of. You dug a hole, and if
 13 it didn't look good, then you covered it up and moved on.
 14 There is no point of making a record of one that didn't
 15 pass.
 16 Q Were you present the entire time that the
 17 test pits were being dug?
 18 A I think I was present for all of them,
 19 except one. I think I was called away on the property for
 20 something when one was dug and came back when they were
 21 still there after the fact.
 22 Q Who were you called away by?
 23 A I don't know, I don't remember.
 24 Q What were you called away to do?
 25 A I don't know, I don't remember. I just

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1 remember I went away and then I came back and they had
 2 already dug the test pit, so I wasn't present when they
 3 dug that.
 4 Q Prior to this time, had you ever witnessed
 5 test pits being dug or anything to do with test pits?
 6 A No.
 7 Q Did you learn at the time you were on the
 8 property and the test pits were being dug that these sites
 9 were being approved or did you learn sometime thereafter?
 10 A They are not approved when you dig a site
 11 pit.
 12 Q What happens?
 13 A Well, they told me that once you found
 14 suitable soil, then they had to come back and do a perk
 15 test in those locations.
 16 Q Who told you that?
 17 A I think it may have been Wilson.
 18 Q Was this during the original conversation
 19 you had with Mr. Wilson or at some subsequent
 20 conversation?
 21 A No, it was probably a subsequent
 22 conversation afterward, I don't recall exactly when that
 23 took place.
 24 Q How many conversations do you recall having
 25 with Mr. Wilson prior to being out on the property and

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1 digging these test pits?
 2 A I don't know, I don't recall how many. I
 3 would be guessing if I gave you a number.
 4 Q Was it more than five?
 5 A No.
 6 Q Who performed the perk tests?
 7 A Wilson's crew did.
 8 Q Were you present during the performance of
 9 the perk tests?
 10 A No.
 11 Q Do you know when they were performed?
 12 A No, I am not positive of when that was — I
 13 would say within, here again, I am guessing, estimating, 6
 14 weeks of when we dug the — 6 to 8 weeks from when we dug
 15 the test pits.
 16 Q Between the time that the test pits were dug
 17 and the perk tests were performed, which you are
 18 indicating about a 6 week period, did you do anything
 19 else, you personally do anything else with respect to
 20 subdividing the property?
 21 A Well, we couldn't subdivide the property
 22 until we knew whether a site had perked, so there was
 23 nothing to do.
 24 Q So your answer to my question was you did
 25 nothing in the 6 weeks between when you dug the test pits

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1 and when the perk tests were done?
 2 A I may have been — again, it is speculation
 3 — talking to a builder friend of mine for design of an
 4 art studio and a house; but at some point in there, that
 5 would be the fall of '99, this started to evolve.
 6 Q Who would this builder friend have been?
 7 A McClintic.
 8 Q That is the name of an individual or a
 9 company?
 10 A It is an individual, Max McClintic.
 11 Q Where is Mr. McClintic located?
 12 A He is in State College, Pennsylvania.
 13 Q Was it your intent at the time that you had
 14 conversations with him to have him build the structure
 15 that you contemplated on the property?
 16 A It was my intention that he would help
 17 design it and help build it. His brother, Fred McClintic,
 18 actually had the construction crew.
 19 Q Did you enter into a written contract with
 20 Max McClintic with respect to the design of the building?
 21 A No, Max and I have always operated on a
 22 handshake.
 23 Q How about with his brother with respect to
 24 building it, did you enter into a contract?
 25 A We entered in a contract where he agreed —

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1 Q Did you enter into a written contract?
 2 A No.
 3 Q What contract did you enter into with the
 4 builder?
 5 A The time and material, construction and that
 6 we set aside or he set aside the -- as soon as the weather
 7 broke in the year 2000, that he would begin construction
 8 on a garage, an art studio and a house.
 9 Q Anything else that you recall doing toward
 10 developing the property or building on the property during
 11 this 6 week period between when the test pits were done
 12 and the perk tests?
 13 A Well, we had put the -- we had put feelers
 14 out for the house and -- see, the house and barn already
 15 had a sewage system existing, so we didn't need to worry
 16 about whether we perked or probed there. So we put
 17 feelers out to find a buyer for about a little less than
 18 26 acres and the house and the barn.
 19 Q How did you determine what acreage you would
 20 sell with the house and barn?
 21 A Because of Simpson's survey; and as I said,
 22 there is a main power line going down through the property
 23 and it acted as a natural divider.
 24 Q Did Simpson do a survey?
 25 A Yes.

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1 Q When did he do the survey?
 2 A That spring and summer.
 3 Q The spring and summer of '99?
 4 A Yes.
 5 Q Do you still have that survey?
 6 A A copy of that survey was provided to you.
 7 Q Did you take any other action, I am just
 8 going to limit it to the 6 week period --
 9 A You are calling it 6 weeks, I said, 6 to 8
 10 weeks, I don't remember.
 11 Q Whatever that period was, that is why I am
 12 relating it to the test pits being dug and the perk tests
 13 being performed, whatever time period that was,
 14 understanding that we don't have the exact time period;
 15 but did you take any other action toward developing
 16 building on the property and/or subdividing the property?
 17 A Well, we started to look at the
 18 possibility -- we had to get a road back to where we
 19 wanted to build and it was already a base road back there
 20 but it crossed the stream.
 21 Q How did it cross the stream?
 22 A It didn't, it came to the stream and it
 23 would have had to cross the stream to get to the property
 24 where we were going to build or the land that we were
 25 going to build on, so Max McClintic was exploring getting

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1 a permit. I am not sure from whom, Forest and Waters or
 2 somebody, for a stream crossing, for a bridge.
 3 Q He was exploring the permit at your behest?
 4 A Yes.
 5 Q Did you tell him specifically to get a
 6 permit or did you just tell him that you wanted this road
 7 and do what is necessary, how did that work?
 8 A Well, I never got a permit to cross the
 9 stream, so he was exploring what it took. He is the kind
 10 of guy that just takes charge and before I knew it, he had
 11 applied for a permit and gotten it.
 12 Q Who did he apply with --
 13 A As I said, I don't remember if it was Forest
 14 and Waters or -- I forget the people that issue -- the
 15 Township has a copy of the permit that was a copy of the
 16 permit that was issued by whatever department was required
 17 for a bridge to be put across the stream.
 18 Q When you said there was already a base road,
 19 what do you mean by that, what is --
 20 A There was already an obvious cartway that
 21 went all the way back into the woods, through the woods,
 22 to the stream.
 23 Q Was this cartway being used in any fashion
 24 to service either the barn or existing house?
 25 A No.

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1 Q Was there any roadway being used or any on
 2 the property?
 3 A The house and the barn were already right
 4 along the paved road.
 5 Q They had access to the paved road how?
 6 A Right there it was -- the house was within
 7 20 feet of the paved road and the barn was 20 feet from
 8 the -- all there was in front of the house and the paved
 9 road was a parking space, they didn't even have a
 10 driveway.
 11 Q This cartway that you are referring to, was
 12 that a dirt cartway?
 13 A It was a shale, shale dirt cartway.
 14 Q Was it graveled in any way?
 15 A Well, obviously, it had been kept up by
 16 somebody, probably the Michaels, I don't know, because
 17 there weren't any trees growing in it or anything else.
 18 In fact, it had even been mowed.
 19 During that period of time I also was
 20 talking to Wilson about coming in and shaleing, putting a
 21 new coating of shale on that road to bring it up to a
 22 better standard for our driveway.
 23 Q You were talking to Mr. Wilson about doing
 24 the work to put the shale on there?
 25 A Yes.

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1 Q And was this during the period of time that
2 we are talking about between --

3 A Well, was it during the 8 week period of
4 time, I am not sure. It was in the fall of 1999 when all
5 this was talking place.

6 Q You said you put out feelers about selling
7 the existing structures and 26 acres. What do you mean by
8 that?

9 A Well, I just let it be known to people that
10 I was -- I told Simpson I would like to sell this off. I
11 told other people that may have an interest.

12 Q Who else did you tell beside Simpson that
13 you can recall?

14 A I don't remember. If I had a friend in
15 State College that said, oh, gee, I would like to be out
16 in that area, I would tell him that I was going to sell
17 off 26 acres and the house and the barn.

18 Q Did you have a price in mind at the time
19 that you were putting these feelers out as to what you
20 wanted to sell the house and the barn and the 26 acres
21 for?

22 A I had asked several realtor friends of mine
23 what they thought something like that would go for.

24 Q Do you recall who you asked?

25 A Probably Pat Brewer and a fellow by the name

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1 grapevine that this property was for sale.

2 MR. SHERR: Off the record.

3 (Lunch recess.)

4 BY MR. SHERR:

5 Q We are back on the record. Mr. Corneal, we
6 left off, you had indicated that you got a call from the
7 Hewetts, who had heard through the grapevine about the
8 property. Do you recall that testimony?

9 A Yes.

10 Q Where did they call you?

11 A Well, when I said the grapevine, I meant the
12 grapevine in the area down there and the grapevine
13 specifically, they told me that Tom Wilson had told them
14 that I was interested in selling a piece of ground. And I
15 believe since Tom had my number at the office, I think
16 that is where they called me, at the office.

17 Q Had you prior to hearing from the Hewetts,
18 discussed with Mr. Wilson selling the parcel containing
19 the barn and the house?

20 A Yes, in fact, he had expressed an interest
21 in buying it himself.

22 It so happens that this property that I
23 bought from Michaels was the old Wilson farm, which was
24 his grandfather's farm, and he stated to me that he would
25 love to have a place to go with his grandchildren and he

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1 of Scott Yocum.

2 Q Specifically, you asked them what?

3 A What they thought a house and a barn and 26
4 acres would sell for.

5 Q Would sell for where? Did you tell them
6 where?

7 A Yes, in Huntingdon County.

8 Q Just in Huntingdon County?

9 A No, I told them where the property was,
10 Yocum had sold property over in that area before.

11 Q What did these relators tell you with
12 respect to what it would sell for?

13 A They indicated, I don't remember exactly,
14 anywhere from 125 to \$175,000, if it was somebody looking
15 with horses or something like that.

16 Q Did you contract with any realtor to sell
17 the property?

18 A No.

19 Q Why not?

20 A Because I didn't want to.

21 Q Did you do anything else to, in your terms,
22 put out feelers to sell the property other than what we
23 have discussed?

24 A No, because before I got it I got a call
25 from the Hewetts who had somehow heard through the

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1 would be interested in personally buying the 26 acres.

2 Q Did he specifically reference the 26 acres
3 during this conversation?

4 A Well, I said, I told him that I was selling
5 off the house and the barn and approximately 25, 26 acres,
6 something around that, so yes, that is what he anticipated
7 it was going to be on the market.

8 Q Did you have this conversation with
9 Mr. Wilson concerning selling the house and the barn
10 before or after the test pits were dug?

11 A Well, it was during, because we had a number
12 of discussions at that time of what was necessary to do
13 and what the Township through its SEO required.

14 As I said before, he told me he was a
15 supervisor. So at that time I quizzed him on what it was
16 necessary to do and he made a joke, he says, well, in this
17 Township we even permit privies, inferring that it was
18 wide open.

19 Q Just so I am clear about time, and the only
20 reason I am asking this, the conversation that you had
21 with Mr. Wilson about purchasing the property when he
22 referenced to you that it was the old Wilson farm --

23 A The old Wilson farm.

24 Q -- was that before or after the test pits
25 were dug?

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1 A I would suspect that it was either at the
 2 same time or before. Because I brought him on and we were
 3 discussing a number of things. Remember the first time I
 4 said I talked to him, we talked about cleaning up some
 5 debris that had been thrown over and as we are going
 6 through this area of the farm he is talking about, oh,
 7 yeah, this was an old logging road. When I was a kid,
 8 there was a sawmill back here. So he was giving me a
 9 history on this thing.

10 I can't really pinpoint whether it was right
 11 at the same time we were doing the test, but obviously, it
 12 relates to what I was hiring him for. So we had already
 13 done the test pits, I am not sure.

14 It was right around that time, probably
 15 within a week of two of either prior or after the test
 16 pits, or it could have been days prior to the test pits.

17 Q Is it your testimony that you are aware that
 18 Mr. Wilson was a Township supervisor at or around the time
 19 that the test pits were dug?

20 A He had told me, yes.

21 Q You indicated he didn't tell you during the
 22 first conversation you had with him, it was some
 23 subsequent conversation, right?

24 A As I said, I can't remember exactly what the
 25 substance of each conversation was. I said at some point

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1 requirements with respect to on-lot sewage, did you have
 2 any discussions with Mr. Wilson about any other Township
 3 or county requirements for dividing the land?

4 A When you say discussions about dividing the
 5 land.

6 Q Subdividing the land?

7 A Or subdividing the land, the situation was
 8 that there was no subdivision requirements and code. He
 9 said, you can build whatever you want, there is no code,
 10 there is no building code, there is no subdivision. I
 11 think that was in the same conversation, he said, you can
 12 have a privy, if you wanted one, in this Township.

13 Q So we are clear, is it your testimony that
 14 Mr. Wilson told you at sometime before the test pits were
 15 dug and I am using that just as a reference point, that
 16 there was no subdivision requirements in the Township?

17 A Well, you are asking me, again, to identify
 18 a specific time. It may have occurred the day we were
 19 digging the pits or it may have occurred the day before we
 20 were digging the pits.

21 I know that I delivered to his office a copy
 22 of a rough map from Simpson showing proposed lots that we
 23 were going to do and whether the conversation took place
 24 at that moment, because we were, obviously, discussing
 25 subdivision, or it took place later on, I am not sure.

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1 it became apparent that he was a supervisor, he told me he
 2 was a supervisor. Then we had discussion, whether it was
 3 the same time as the discussion about him buying the
 4 property or not buying it, I don't recall exactly.

5 It was kind of like we were establishing --
 6 I felt that I was trying to establish a rapport with some
 7 local people. So it was just a chatty, number of chatty
 8 conversations about things.

9 Q What is it that you recall him telling you
 10 about the Township requirements with respect to the sewage
 11 enforcement.

12 A As I said, he joked, and he said, we even
 13 permit privies here, which is an outdoor toilet, an
 14 outhouse. The reference was that it was unusual that they
 15 were -- I don't want to say that he didn't say they were
 16 backward, but that is, obviously, what I interpreted from
 17 it. All you had to do was do the tests and if you passed,
 18 you had no problem. I mean the log tests and the perk
 19 tests.

20 Q Is it your belief based on your
 21 conversations with Mr. Wilson that he was aware before the
 22 test pits were dug that you were intending to subdivide
 23 the property?

24 A No question about it.

25 Q Other than discussions about the

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1 Q Are you sure that he told you that there
 2 were no subdivision requirements in the Township?

3 A Absolutely.

4 Let me add to that. He said there was no
 5 subdivision requirements, but we had to have the SEO's
 6 approval on these locations, which then had to be
 7 submitted to the Township. So it wasn't that you could --
 8 you, obviously, needed the on-site septic approval from
 9 the SEO that the Township then had to sign, that then got
 10 forwarded on to DEP and that is what he had told me needed
 11 to be done; so to that extent, the Township was involved.

12 Q Did you discuss or did you have any
 13 discussions with anybody concerning your discussions with
 14 Mr. Wilson and what the Township required or didn't
 15 require?

16 A Yes, I am sure I discussed that with Max
 17 McClintic. I may have said something to my wife, I can't
 18 recall, because Max was doing the drawings for our home
 19 and art studio.

20 Q Did you discuss your conversations with
 21 Mr. Wilson concerning what the Township would require or
 22 wouldn't require with Mr. Simpson?

23 A I think Mr. Simpson already knew what the
 24 Township required and didn't require, because as I said,
 25 he was doing the sewer modules and he is the one that

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|---|---|
| <p style="text-align: right;">58</p> <p>1 recommended that I needed to get the pits done and the SEO 2 involved. 3 Q My question was, did you discuss your 4 conversation that you had with Wilson with Simpson? 5 A Did I specifically discuss Wilson's 6 conversation, I most likely did; but I can't say that I 7 did. I don't know, that is the answer to the question, I 8 don't remember whether I did or not. I could have and I 9 would have to ask Mr. Simpson if. . . 10 Q Other than what you have already testified 11 to occurred with respect to either your subdividing the 12 property and building on the property to the point where 13 the perk tests were done, can you remember anything else 14 happening with respect to either subdivision and/or 15 building on the property? 16 A Well, no. 17 It was my understanding from all these 18 conversations that I had with Simpson and with Wilson that 19 there was no problem in dividing off some pieces of ground 20 as long as they perked or we were able to get a sewage SEO 21 officer approval on the perk sites, that was the only 22 requirement that we had to develop and divide up this 23 land. 24 Q Once the perk tests were done, I believe you 25 testified that Mr. Simpson then did sewage models?</p> | <p style="text-align: right;">60</p> <p>1 talked to anybody else. 2 Wilson was my contact then and continued to 3 be, because I was going to have him do that road that was 4 going to be necessary -- what it really would be, would be 5 a driveway for the house, a long one, and he was going to 6 do the driveway for me. So my contact would have been 7 with him. 8 In those contacts, he never said anything to 9 me, well, we have a problem or you have a problem, 10 nothing, everything was hunkydory as far as I knew. 11 Q Did you have contact with Mr. Wilson after 12 the perk tests were done but prior to your going to the 13 February 2000 Township meeting? 14 A That is the time period I was talking 15 about. He and I were discussing getting the road in, 16 because we had discussions about permitting to get the 17 bridge across the stream. And I wanted to go ahead and 18 get the driveway in so that when we were ready to go 19 across the stream, that we could do it, because we had to 20 get construction vehicles back in the back end of the 21 property where we were going to do the construction. So I 22 discussed that with him, from that period of time when the 23 perk tests were done, up until February of the year 2000. 24 Q When were the perk tests done, do you know? 25 A In the fall of -- mid to late fall of '99.</p> |
| <p style="text-align: right;">59</p> <p>1 A Yes. I don't know if it was right then that 2 he did the sewer modules but eventually he did sewer 3 modules within a month or two or something like that. 4 Q At the time did you have any understanding 5 as to why sewage modules were necessary? 6 A Yes, that was the process upon which the SEO 7 approved in writing the sites that were found to have 8 passed and the Township would sign those modules and, in 9 fact, I paid them \$1400 and some cents for their SEO's 10 work on this thing and I had paid Wilson twice, once for 11 digging the pits and once for doing the perk tests. 12 Once that was done, then sewer modules were 13 done for the Township to sign. Barry Parks was presented 14 with those sewer modules, he signed them all. I took him 15 to a meeting of the Township and asked that they be signed 16 and the Township supervisor refused to sign them. 17 Q When did you take them to the Township? 18 A I believe it was the February meeting. 19 Q February of what year? 20 A The year 2000. 21 Q Up to that point, had you had any contact 22 either in writing or orally with anybody from the 23 Township, any official or employee of the Township other 24 than Mr. Parks and Mr. Wilson? 25 A No, just with Wilson. I don't think I</p> | <p style="text-align: right;">61</p> <p>1 Q Do you recall, Mr. Wilson telling you that 2 you should hurry and get your materials to the Township? 3 A No, he never said that. He never indicated 4 anything was wrong or anything was going to delay the 5 project that we were pursuing. 6 Q Getting back to the phone conversations with 7 the Hewetts, it is your belief that it was Mr. Wilson who 8 told the Hewetts that you were selling some of this 9 property? 10 A That is what I believe, as I recall, yes. 11 Q What else occurred during this phone 12 conversation? 13 A That they had a daylily business and they 14 were located in a dark area and they needed to get out 15 into the sunshine and get some open space and they were 16 looking for a place just like ours. 17 Q Did they indicate to you during that phone 18 conversation that they had been to the property? 19 A I don't remember if they had been or not, I 20 don't know. 21 Q Did you discuss at that point during this 22 initial phone conversation price? 23 A Yes. 24 Q What price did you discuss? 25 A \$150,000 -- actually, I discussed \$160,000,</p> |

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1 because that was the upper end of what my realtors had
2 told me or had estimated the property to go for and I was
3 looking to basically cash -- get my cash out of the
4 investment and invest that money in a house and then I
5 would have the rest of the land free and clear.

6 Q When you say investment, as I understand
7 your testimony, at the time that you purchased this
8 property, you weren't purchasing it for an investment,
9 were you?

10 A Oh, absolutely. Are you kidding me? I
11 never buy anything, unless it is an investment.

12 Q So it is now your testimony that --

13 A No, I haven't changed my testimony.

14 Q Let me finish and you can answer it anyway
15 you would like.

16 It is now your testimony that at the time
17 that you purchased the property, one of your purposes in
18 purchasing the property was to make money off of the
19 property?

20 A I never buy anything in real estate, unless
21 I am going to make money on the transaction. I always
22 look -- and my wife can attest to this and so can many
23 people that know me -- I never make -- I never buy
24 anything for the fun of it or for some recreational
25 purpose. I buy it with the anticipation of getting my

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1 away a lot of the character that drew a lot of people to
2 the State College market.

3 Right across the mountain, 20 minutes away,
4 was a piece of property that was ideal for -- I could just
5 see the State College market moving that way, and, in
6 fact, it was.

7 So I anticipated from day one that I would
8 make money on this property, as well as have the benefit
9 of having the property -- an art studio along the stream
10 and either a summer house or what ended up being a
11 permanent house.

12 MS. MONTGOMERY: Can I talk to my client for
13 one second?

14 MR. SHERR: No. If he wants to have a
15 conference with you, that is one thing.

16 MS. MONTGOMERY: All right.

17 A I want to have a conference with my
18 attorney.

19 (Discussion held off the record.)

20 (Answer read.)

21 A A summer house is actually what I said. It
22 ended up being a permanent house.

23 BY MR. SHERR:

24 Q My question was though, how did you know or
25 what did you base your belief that you would be able to

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1 money back somehow and then ending up with something.

2 In this case, I was willing to accept the
3 fact that I would have no money tied up in the balance of
4 the land that I really wanted, and that is how I always
5 invest.

6 Property is not -- I am not an affluent
7 person that I can afford to buy property and sit around on
8 it. It has got to make money or return my investment to
9 me or I have a problem with it, I always buy that way.

10 Q So it was your belief then from the time
11 that you purchased the property that you would be able to
12 subdivide it and recoup your purchase price?

13 A There was no reason to believe that I could
14 not subdivide it and recoup my money.

15 Q What I am asking you is you had a belief at
16 the time that you could do that?

17 A Yes.

18 Q Recoup your money?

19 A Yes.

20 Q What did you base that belief on?

21 A I bought a number of pieces of real estate
22 in the past and sold them.

23 I try to anticipate where the market is
24 going to be in the future. I anticipated that the market
25 with I-99 going into the State College area was taking

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1 subdivide the property on at the time that you purchased
2 it?

3 A It is not hard to subdivide land when there
4 is no subdivision ordinances.

5 Q Were you aware there were no subdivision
6 ordinances?

7 A Somebody had told me there was virtually
8 nothing over there. I don't remember whether it was one
9 of my realtor friends or -- I don't know who it was.

10 Q Just so we are clear on the record, it is
11 your testimony that at the time that you purchased the
12 property you were aware or you had a belief that there
13 were no subdivision ordinances in Jackson Township?

14 A I had a belief that that was the case. I
15 never checked directly with the Township about that.

16 Q Why didn't you check with the Township?

17 A Because it wasn't a compelling situation. I
18 didn't know how much dividing I was going to make or what
19 exactly I was going to do. I knew that it was a good buy
20 and I couldn't anticipate any problems.

21 Maybe it was Yocum that told me, because he
22 had sold some pieces over there and has represented to
23 people that it was easy to subdivide, because there were
24 no ordinances and no building codes and he is a
25 professional, I had no reason not to believe him.

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1 Q When you learned that you would have to have
 2 certification that lots were suitable for on-site sewage,
 3 were you surprised by that?

4 A No, you have to have sewage disposal and
 5 most people that live in places like that don't have
 6 public sewer, so you would anticipate you have to have an
 7 on-site septic system. I certainly had heard of on-site
 8 septic before. And when I bought the property, the
 9 Michaels pointed out, here is our drain field for the
 10 on-site septic system for the house.

11 Q Who pointed that out?

12 A The Michaels, the people I bought the
 13 property from.

14 Q Was that the first time that you become
 15 aware that there was on-site sewage at that property?

16 A I guess so, but nobody in rural areas like
 17 that have public sewer. So in anticipation, if somebody
 18 asks me what kind of sewer is it, my guess would have been
 19 that it was on-site septic.

20 Q But you never investigated that?

21 A I didn't need to, because as I said,
 22 Michaels told me, which confirmed what was obvious.

23 Q Prior to the Michaels telling you I guess is
 24 what we are trying to pinpoint now, you didn't do any
 25 investigation, whether there was on-site sewage for the

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1 person that worked for me living in the house at that
 2 time, yes, I did.

3 Q Who was that?

4 A Scott Page.

5 Q In what capacity was he living in that
 6 house?

7 A He was living in there without paying rent,
 8 because he was in financial difficulties and he was a very
 9 nice young man and he worked hard for us and we wanted to
 10 give him that as a fringe benefit to help him out.

11 Q What work did he do for you?

12 A He worked as a front desk receptionist at
 13 our business.

14 Q Is that the health club?

15 A Yes, the health club.

16 Q Did you have any written agreement with him
 17 with respect to his living on the property?

18 A No.

19 Q Did you subsequently enter into an agreement
 20 with anybody with respect to leasing any of the property?

21 A Subsequent to what?

22 Q To Mr. Taige living on the property?

23 A We have entered into an agreement in the
 24 summer or the fall of this year.

25 Q With whom?

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1 property or whether it was served by any kind of public
 2 system, you did no investigation as far as that is
 3 concerned, right?

4 A There was no need to, I hadn't agreed to buy
 5 the property yet.

6 Q My question is, you didn't do that, isn't
 7 that correct?

8 A My answer is there was no need to do that,
 9 that is correct.

10 Q During your initial conversation with the
 11 Hewetts, did you tell them that you were in the process of
 12 dividing the property?

13 A I said at that time we were investigating
 14 the division of the property and we anticipated that the
 15 easiest one to divide, because we knew it already had
 16 sewer and water on it, was the house and the barn and 26
 17 acres, a little less than 26, 25 point something.

18 Q At the time that you had your initial
 19 conversation with the Hewetts, were you aware that
 20 somebody was living in the house?

21 A There was no one living in the house.

22 Q Was there a tenant for the property?

23 A Not at that moment.

24 Q At what point --

25 A Excuse me, I beg your pardon. I have a

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1 A Kevin, I don't remember his last name.

2 Q That agreement is in writing?

3 A No -- you asked me if I had a written
 4 agreement, I did not. It is an oral lease on a 60-day
 5 basis that we entered into this fall with Kevin and his
 6 fiancée, I don't remember her name either, sorry.

7 Q What are the terms of the 60-day lease?

8 A They pay utilities and \$375 a month and
 9 maintain the property. I can give them 60 days notice for
 10 them to be out or they can give me 60 days notice that
 11 they want out.

12 They were children of a friend of mine in
 13 State College that didn't have much money and were
 14 desperate to find a place to be on their own, because she
 15 is still at Lockhaven State and going to school and
 16 teaching and he works construction with one of the local
 17 construction companies.

18 Q This started in the fall of 2000?

19 A Fall of 2000, yes.

20 Q Have they paid \$375 a month since the
 21 inception of the --

22 A Yes, I think they have been there 5 or 6
 23 months, something like that.

24 Q Getting back to the Hewetts and the phone
 25 conversation that you had. During this initial

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1 conversation that you had with them, did you discuss
2 anything else concerning the sale of the property other
3 than price?
4 **A** Well, we discussed Page living there, Mr.
5 Page, and we discussed the Hewetts having to sell their
6 house.
7 **Q** What did you discuss about Page living
8 there?
9 **A** Well, I said that we cared about this young
10 man, that we were trying to help him and the last thing we
11 wanted to do was throw him out and so that we wanted to
12 give him plenty of time to find something else or we were
13 going help him find something.
14 **That was fine with them, because they had**
15 **started this daylily business and really weren't ready to**
16 **go into it full-time until the spring of 2000 and so we,**
17 **basically, had -- I think their contract was in October**
18 **and they had until -- they weren't anticipating needing to**
19 **move in there until the beginning of the summer, which**
20 **worked out fine for everybody or it seemed to work out**
21 **fine for everybody.**
22 **Q** Did you enter into any agreement during this
23 initial conversation?
24 **A** No, there was a subsequent written
25 agreement.

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1 **Q** Was there any kind of agreement between you
2 and the Hewetts during this initial conversation that
3 either they would purchase the property or come out and
4 look at the property or that you would continue
5 negotiating, anything of that nature?
6 **A** No.
7 **At the initial discussion they came out and**
8 **met me on the property. We went through the house and we**
9 **went through the barn and they looked at the land and took**
10 **a walk down along the stream and we discussed things.**
11 **Q** What did you discuss?
12 **A** The contract or the proposed contract to
13 purchase.
14 **Q** Did they agree that at that point they
15 wanted to purchase the property?
16 **A** Yes -- well, at that point, they may have
17 called me that night or they may have called me the next
18 day; but as a result of that meeting, they elected to
19 purchase the property.
20 **I had offered it at 160, they asked for 150**
21 **and I agreed to it.**
22 **Q** Then you entered into a written agreement of
23 sale, correct?
24 **A** Right.
25 **Q** Who prepared the agreement of sale?

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1 **A** I did.
2 **Q** There were a number of conditions contained
3 within the agreement of sale, correct?
4 **A** Right.
5 **Q** The one condition, I will read it here,
6 states: Buyers acknowledge that a present tenant, Scott
7 Page, P-A-G-E, needs to be relocated by sellers to a
8 property they are constructing on another portion of the
9 farm and that they will be flexible in the settlement date
10 to accommodate this transition.
11 **A** Yes.
12 **Q** Do you acknowledge, and I can show it to
13 you, I don't have a copy.
14 **A** You don't have to show it to me.
15 **Q** You acknowledge that that was a condition on
16 the agreement of sale?
17 **A** Assuming you are reading it from the
18 agreement of sale, yes.
19 **Q** I will represent that I was reading that
20 from the agreement of sale.
21 **A** Okay.
22 **Q** What were you constructing on the property?
23 **A** Well, we were anticipating building the
24 house and the art studio and the garage.
25 **Q** That is where you anticipated relocating Mr.

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1 Page to?
2 **A** Well, at the same time there was another
3 possibility that -- I was talking to a neighbor called
4 Weaver and Weaver had indicated that he may be interested
5 in selling his property and he had a small cottage on that
6 property. So I was anticipating that Weaver, that if I
7 made a deal with Weaver, that Scott would move on to that
8 property.
9 **Q** So was your contemplation at the time that
10 you entered into the agreement of sale that that sale
11 would not be consummated until either you entered into a
12 separate agreement with Mr. Weaver or you completed
13 construction of another building on this property?
14 **A** No, that is not correct.
15 **Q** Why is that not correct?
16 **A** What was anticipated was that we weren't
17 going to move Mr. Page out into the cold without trying to
18 help him, because he was kind of a fragile individual
19 psychologically and we were trying to help him. The last
20 thing we wanted to do was cause him any problems.
21 **So we were anticipating somehow finding**
22 **something, but it would not hold up this sale, we were**
23 **giving ourselves plenty of time to find something, even if**
24 **we had to find something in State College, it doesn't**
25 **really matter. But it was just, we wanted the Hewetts to**

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1 know that we had a concern that we wanted taken care of
2 for this young man.

3 Q At the time that you drew up this agreement
4 of sale, you at least anticipated the possibility that
5 this sale may be delayed because of Mr. Page and where to
6 locate him, right?

7 A No, no.

8 Q Why did you include this condition in the
9 agreement of sale?

10 A We included it in there because we had a
11 discussion about it and we anticipated closing this deal
12 sometime in the spring of the year 2000. We gave
13 ourselves a line out there until the end of June; but
14 everybody anticipated that it was going to happen sooner
15 than June.

16 It was just a matter of we were just trying
17 to accommodate and the Hewetts were very accommodating in
18 that regard, they understood our concern about Mr. Page
19 and so we put language in like that, that is all, just so
20 there was an acknowledgment that everybody understood we
21 needed to take care of Mr. Page, that was one of our
22 concerns, but it certainly wouldn't have held up the sale.

23 Q You had in the agreement of sale that the
24 closing date would be June 30, 2000, right?

25 A Yes.

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1 Q You also put in there that both you and the
2 Hewetts would be flexible on the closing date to make sure
3 that Mr. Page was being accommodated?

4 A Right. The point is that it was not going
5 to hold up the sale or the transfer of the property, it
6 was just we were trying to find him something as soon as
7 we could and the Hewetts were understanding of that and we
8 were going to work together but it certainly wouldn't have
9 held up the sale.

10 Q You also provided that you would use the
11 second floor of the barn in anticipation of the completion
12 of whatever you were going to build on the property?

13 A That's right. I had a bunch of wood,
14 timber, that I had cut off some other property and it was
15 being air dried, cherry, oak, maple and pine and we had
16 moved it out to the top floor of the barn.

17 It wasn't easy just to move it somewhere,
18 because it had to be inside. So I reserved the rights to
19 do this, because I didn't know how long it was going to
20 take us to construct things and to use up that wood.

21 We had an estimate of what it would take,
22 but we were giving ourselves plenty of leeway, after
23 discussions with the Hewetts, it probably won't be a year,
24 but I want the right just for 2 years just in case, just
25 trying to anticipate the worst case scenario.

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1 Q As of the time that you entered into the
2 agreement of sale with the Hewetts, which I will represent
3 according to the agreement of sale states October 7, 1999,
4 had you had any dealings with any official or employee
5 from the Township other than Mr. Wilson and the SEO?

6 A I don't think so, not that I can recall.

7 Q Is the first time that you had any dealings
8 with any official or employee from the Township other than
9 Mr. Wilson and the SEO when you attended the Township
10 meeting in February of 2000?

11 A I believe that is correct, yes, I think so.
12 I am trying to think if I had called the Township
13 secretary about any questions or information. At this
14 moment I don't recall any conversations.

15 Q I am going to use as our time this February
16 2000 Township meeting that you attended, up to that point,
17 up to February of 2000, had you engaged anybody else to
18 perform any other services on the property other than
19 Mr. Wilson; Mr. Parks; Mr. Simpson; and the designer, Mr.
20 McClintic?

21 A I can't recall anybody that I would have
22 hired to do something at that particular time.

23 Q What did you take to the Township meeting of
24 February 2000?

25 A I took the map of the subdivision and I

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1 believe -- I think I took the sewer modules; but their
2 meeting is the first Monday of every month, and I may have
3 taken the sewer modules on the first Monday of March, if I
4 didn't take it on -- I would have to look at the date of
5 the sewer module, the signature that Parks had done.

6 Q Were you present when Parks signed the sewer
7 module --

8 A No, actually, they were delivered to his
9 wife, who works in State College, she took them home to
10 him and brought them back.

11 Q Brought them back to you?

12 A Yes, she did, she brought them -- I believe
13 she brought them back to me. Either she brought them back
14 or he mailed them to me; but I didn't deliver them to him
15 personally, his wife took them to him.

16 Q The map showing the lots and the sewer
17 modules, how many proposed lots were there?

18 A At that time there was three lots.

19 Q What were the three lots, if you can
20 describe them?

21 A We had the 20 -- we will call it the 26 acre
22 lot. Then there was a triangular piece of ground back in
23 the back, that abutted the 26 acre piece but on the other
24 side of the power line; and then there was the residue,
25 which was what we were going to build on. The smaller

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1 triangular pie shape, it was a pie-shaped lot, it was
2 about 4 and a half acres, something like that.
3 Q What did you intend to do with that lot?
4 A I was going to give it to one of my kids.
5 Q Other than taking the map to the Township
6 meeting and the sewer modules to the Township, did you
7 send the sewer modules anywhere else?
8 A Send it somewhere else?
9 Q Deliver it somewhere else or bring it
10 somewhere else?
11 A In what time are you talking about, when?
12 Q At or around the time that you brought it to
13 a Township meeting?
14 A I don't think so.
15 David Simpson delivered the things to me
16 done, we signed them in the owner's spot and we gave them
17 to Parks – I called Parks and Parks said give them to my
18 wife, it is easier, because she worked in State College,
19 so she brought them home and either she delivered them or
20 he mailed them to me, one of the two, and they were all
21 signed. Aside from that, no, I don't think they were
22 delivered to anyone else.
23 Q You don't recall, as I understand, whether
24 you brought them to the Township meeting, and we are
25 talking about the sewer module, the Township meeting in

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1 February of 2000 or March of 2000, right?
2 A Yes, you can easily determine that by the
3 date that Parks signed it.
4 If he signed it before the first Monday of
5 February, then it was taken in February; if he signed it
6 after the first Monday of February, then it was taken to
7 the March meeting.
8 Q But you recall that you were definitely at
9 the February 2000 meeting?
10 A Oh, yes.
11 Q Is that correct?
12 A Oh, yes.
13 Q What happened at that meeting?
14 A I had the plan, in fact, I had 3 or 4 copies
15 of the plan, which is what Simpson told me I needed. My
16 wife and I had signed it and it was notarized and I asked
17 the Township to sign it.
18 Q Why did you ask the Township to sign the
19 plan?
20 A Because that is what I was told had to be
21 done.
22 Q Who told you that?
23 A I think it was Simpson that said take it –
24 it was either Simpson or Wilson that said you have got to
25 take the plan – Wilson that told me to take the plan to

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1 the Township or bring it to the supervisor's meeting for
2 our signature.
3 Q What happened at the meeting?
4 A They said, no, we are not going to sign this
5 plan.
6 Q Who said that?
7 A One of the supervisors.
8 Q Do you remember which one?
9 A No, I think it was whoever the chairman was,
10 but I am not sure which one of the fellows that was.
11 Q Did they say why they weren't going to sign
12 it?
13 A Yes, they said we have a moratorium in
14 effect on subdivisions and we are not signing any plan.
15 Then they also went on to say, you are doing
16 this wrong anyhow, it has to be submitted to the County
17 Planning Commission first.
18 Q Do you remember who said that?
19 A Whoever it was that was talking, I think it
20 was the supervisor.
21 Q You mean the chairman?
22 A Yes, the chairman of the supervisors.
23 Q Was it one person who was doing the talking?
24 A They all chimed in here and there. I don't
25 remember – in fact, it may have been – it was probably

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1 Mrs. Wirth that said, anyhow, you don't want to be
2 submitting that here. Anyhow, you have to take it to the
3 County Planning Commission first; but they were all in
4 agreement that that is what had to be done.
5 Q It is your testimony, and I need to be clear
6 about this, it is your testimony and your recollection
7 that the person who said they are not going to sign it was
8 the chairman of the board of supervisors?
9 A I said I think that is who said it
10 initially; but as I said, they all chimed in, you know,
11 yeah, we are not going to sign this, no, we have got a
12 moratorium in place. I think Wilson was the one who said,
13 yeah, we have got a moratorium in place and we are not
14 signing it.
15 Q What did you say?
16 A I said you guys can't have a moratorium on
17 an ordinance that you don't have, I said.
18 Then I think Mrs. Wirth chimed in with, yes,
19 besides that, before we sign anything like this, you have
20 to submit it to the County Planning Commission. She said
21 something about, you are out of procedure or something
22 like that.
23 Q So you were aware at the time that you went
24 to the Township meeting in February of 2000 that there was
25 no subdivision ordinance in Jackson Township?

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1 A Right.
 2 Q How did you become aware of that?
 3 A Wilson had told me that way back when.
 4 Q Did Wilson tell you way back when that they
 5 were working on an ordinance?
 6 A No, he did not. He claimed he told me that,
 7 but that is not true at all.
 8 Q When did he claim he told you that?
 9 A At the meeting.
 10 Q Do you know of any reason why Mr. Wilson
 11 claimed to have told you that?
 12 A Why, what was in his mind?
 13 Q Yes. Do you know or do you have a belief as
 14 to why he told you at the meeting of February 2000 that he
 15 had previously told you that they were working on a
 16 subdivision?
 17 A You want me to speculate as to what was in
 18 his mind as to why he did that?
 19 Q I am not asking you to speculate what was in
 20 his mind. I am asking you whether or not you had a belief
 21 or have a belief as to why he told you that?
 22 A Well, I think Mr. Wilson wanted to interfere
 23 with the sale of this property and the subdivision of this
 24 property, because he wanted it himself and now he is
 25 trying to cover his tracks with, oh, I told you about

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1 that, and he never told me anything like that.
 2 Why would I hire him to do test pits and do
 3 perk tests and do all this stuff and pay the SEO if I knew
 4 there was a moratorium on or he knew there was a
 5 moratorium coming in. There is no sense to that.
 6 So I think he was just trying to cover
 7 himself as to why he had went ahead and gotten paid for
 8 this work and then he was trying to say, well, I told you
 9 this was going to happen and he never told me that.
 10 Q Is it your belief then that he was telling
 11 you this, that he had previously told you that they were
 12 working on a subdivision ordinance, because he was
 13 covering up because he accepted payments from you or
 14 because he wanted the property himself or some other
 15 reason?
 16 A Both reasons that you just stated I think.
 17 In fact, after he was able to break or the Hewetts backed
 18 out of the contract, he sent his nephew to me how he
 19 wanted to buy the property now, the 26 acres, the nephew
 20 did, who was a backhoe operator and had no money, had no
 21 wife, no family. All of a sudden the backhoe nephew wants
 22 to buy the property from me.
 23 Q Did you say anything else at the Township
 24 meeting other than you can't have a moratorium because you
 25 don't have an ordinance?

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1 A I told them, this isn't right. I said, you
 2 can't have a moratorium on an ordinance that doesn't
 3 exist. I said, I want this plan signed and I want, you
 4 know, so we can get the sewer modules and proceed, because
 5 I have got this sale — I told them that I had the sale of
 6 the property to the Hewetts, they already knew about that.
 7 Q How do you know they knew?
 8 A Because they said they knew, Wilson knew.
 9 Q Who said they knew?
 10 A Wilson said he knew that the Hewetts had
 11 this property or had a contract on the property.
 12 Q Did you raise your voice at this meeting?
 13 A Raise my voice? Not much louder than what
 14 you are listening to right now.
 15 Q Were you angry?
 16 A Well, I was obviously disturbed when all of
 17 a sudden they are throwing me a curve and Wilson is
 18 claiming he told me this was happening, which wasn't true.
 19 The whole thing was, needless to say, very disconcerting.
 20 I explained to the rest of the supervisors
 21 that I had a contract for this property and that I also
 22 had contractors lined up that were committed and I was
 23 committed to them to build an art studio and a garage and
 24 a house for my wife and I.
 25 Q What contractor did you have lined up?

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1 A Max McClintic.
 2 Q Up until the point of this February 2000
 3 meeting, had you done any construction activities on the
 4 property?
 5 A No — none that required — we didn't do
 6 anything. Wilson actually was supposed to start the road
 7 back to the stream but that hadn't started yet.
 8 Q When was he supposed to start that?
 9 A He said he was going to start it as soon as
 10 he got some of his vehicles and equipment in from other
 11 jobs and they weren't there yet and there was, you know,
 12 the typical contractor excuses and delays.
 13 Q Did there come a point in time where
 14 Mr. Wilson told you he couldn't do the work?
 15 A Yes.
 16 Q When was that?
 17 A That was shortly right thereafter. I said,
 18 are you doing this road for me or not? He said, Well, I
 19 guess under the circumstances I can't or I won't do the
 20 road. This is after we had the confrontation.
 21 Q At the February meeting?
 22 A At the February meeting, yes.
 23 Q Where did this conversation take place where
 24 he told you he couldn't do the work on the road?
 25 A I don't recall if it was at that meeting,

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| <p style="text-align: right;">86</p> <p>1 after the meeting, because their meetings only last 15 or 2 20 minutes, or I got on the phone with him a day or so -- 3 the next day or something. I don't recall how it 4 happened. 5 Q Did anything else happen at the meeting that 6 we haven't discussed? 7 A They told me I needed to go to the County 8 Planning Commission and submit my plan there and that the 9 County Planning Commission would send it back to them for 10 their signature. 11 In other words, what they inferred to me 12 was, no, we don't have a subdivision ordinance, but we got 13 a moratorium on them; but the Huntingdon County Planning 14 Commission has a subdivision ordinance that you have got 15 to clear it through first. That was the inference that 16 they made to me. 17 Q So by you saying they made that inference, 18 they didn't specifically say that to you, correct? 19 A They specifically said that you can't bring 20 it here first, you have to first have the Huntingdon 21 County Planning Commission approve your review and approve 22 your plan. 23 Q Those were the words that were used? 24 A Those were the words that were used. 25 Q Who was it that used those words?</p> | <p style="text-align: right;">88</p> <p>1 submit your plan to the Huntingdon County Planning 2 Commission? 3 A No, I took their word for that. It sounded 4 quite logical and reasonable. My dealings were 5 exclusively, if I ever dealt with anybody, it was in 6 Centre County and I know Centre County has a Centre County 7 Planning Commission that has control over land 8 subdivisions. So I assumed that what they were telling me 9 was true. 10 Q There was nothing to prevent you from 11 looking into what they were telling you to see if it was 12 true, correct? 13 A I asked them for a copy of the ordinances at 14 one point, at which point they said there are none, we 15 have no copies of those. 16 Q When did that -- 17 A It wouldn't have occurred at that meeting, I 18 think it occurred at the next meeting. 19 Q They said they have no copies or they had no 20 ordinances? 21 A They had no copies of any ordinances, they 22 only had the originals and couldn't provide we copies. I 23 said, I will pay for copies, they wouldn't give them to 24 me. 25 Q Who told you that they wouldn't give you</p> |
| <p style="text-align: right;">87</p> <p>1 A I would say it was probably Mrs. Worth that 2 said that. She is a secretary of that body, but she really 3 acts as a Township manager. 4 Q Did anything else happen at this February 5 2000 Township meeting? 6 A No, they just shut me off. They said, we 7 have got a moratorium, we are not going to approve your 8 plan and you have got to take it to the County Planning 9 Commission first anyhow, so that is it. 10 Q Did you thereafter discuss with anybody what 11 happened at the February 2000 Jackson Township meeting? 12 A Yes, I would have talked to Max McClintic 13 about it, I would have talked to my wife about it. 14 Q Anybody else? 15 A I may have discussed it with Fred McClintic, 16 but I don't know if I did or not. Definitely with Max. 17 Probably discussed it with Simpson. I would have 18 discussed it with Hewett, in fact, I know I discussed it 19 with Hewett. 20 Q Why do you know you discussed it with 21 Hewett? 22 A Because Hewett then started to take an 23 active role when they found out the Township was holding 24 us up, because it would have affected them. 25 Q Did you look into whether or not you had to</p> | <p style="text-align: right;">89</p> <p>1 copies of the ordinances? 2 A Mrs. Worth. 3 Q Were you aware that copies of the ordinances 4 were available at the county library? 5 A No. 6 Q You were not aware of that? 7 A No. I told you, I have not dealt in those 8 areas. I hired engineers to do this stuff when needed or 9 architects to do this stuff. If I had any involvement, 10 there was always another attorney that specialized in that 11 area that dealt with that, because that was not my area. 12 Q Up until the point of the March 2000 meeting 13 when you are saying that you were told that you could not 14 get a copy of the ordinance, did you consult with an 15 attorney? 16 A No. 17 Q Why not? 18 A Because I didn't think it was necessary, I 19 thought they were telling me the truth. 20 Q You didn't think it was necessary to consult 21 with an attorney, even though you are testifying that they 22 refused to give you a copy of the ordinance? 23 A You asked me between February and March did 24 I consult with an attorney, that is what I interpreted in 25 your question.</p> |

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1 Q I apologize for that.
2 After you were told they would not give you
3 a copy of the ordinance, did you consult with an attorney?
4 A I talked with Jim Himes in Huntingdon.
5 Q Did you talk to him for purposes of legal
6 representation?
7 A Yes. He was a close friend, so.
8 Q When you spoke with him, did you anticipate
9 that your conversation would be privileged?
10 A I would think so.
11 Q Were you thereafter able to review copies of
12 the Jackson Township ordinances?
13 A Did I review them or was I able to review
14 them?
15 Q Were you able to review them?
16 A After the ordinance was passed.
17 Q When was the ordinance passed?
18 A July the 7th of the year 2000.
19 MS. MONTGOMERY: Object to the form. Just
20 be clear on what ordinance you are talking about. You are
21 making assumptions here.
22 MR. SHERR: I was just referring to
23 ordinances and--
24 A I am talking about the subdivision
25 ordinance. I never reviewed any ordinances of the

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1 township.
2 BY MR. SHERR:
3 Q That is true even after you consulted with
4 this attorney in March?
5 A That's right.
6 Q Did you submit your plan to the County
7 Planning Commission?
8 A Yes.
9 Q When did you do that?
10 A Shortly within a few days of that February
11 meeting.
12 Q Did you personally submit it?
13 A I did.
14 Q Did you speak with anybody at the Planning
15 Commission at the time that you submitted it?
16 A I spoke to a Richard Stahl, the head of the
17 Huntingdon County Planning Commission.
18 Q What was the nature of your conversation
19 with Mr. Stahl?
20 A The nature of the conversation was, I have
21 been told by the Jackson Township commissioners or
22 supervisors that I needed to submit a plan to you for
23 review and approval.
24 Q What did he say?
25 A He says, yes, and our fee is \$75 or

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1 whatever, you can bring it by and I did. I gave him a
2 check for the \$75. I think it was 75, it may have been
3 more, less than a hundred dollars.
4 Q Did Mr. Stahl indicate to you that it was,
5 in fact, necessary for you to submit the plan to the
6 County Planning Commission?
7 A He didn't say one way or the other. He just
8 said we reviewed -- it is customary for us to review
9 plans, I don't remember that that was his exact language;
10 but he never said that it was required or wasn't required.
11 Q Did you ask him?
12 A I assumed from what I was told that I had to
13 do this and I assumed that Huntingdon County had a
14 subdivision ordinance, since I never heard of a county not
15 having a subdivision ordinance.
16 Q Did you ask Mr. Stahl whether or not it was
17 necessary for you to submit your plan to the County
18 Planning Commission?
19 A I said, I have a plan that Jackson Township
20 has asked me or told me I needed to submit to you, what is
21 your procedures? He told me; and he never said, you don't
22 have to submit it to us, we don't have any ordinances. He
23 treated it and led me down to believe that they had a
24 requirement that it had to be reviewed by them at the
25 Huntingdon County level.

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1 Q Did you ask him whether or not you had to
2 submit it to him?
3 MS. MONTGOMERY: Objection to the from.
4 BY MR. SHERR:
5 Q To the County Planning Commission?
6 A I already answered the question. He led me
7 to believe that I had to submit it to them and pay the fee
8 for their review for Jackson Township, as well as Mrs.
9 Wirth; and the supervisors led me to believe that that is
10 what I had to do if I wanted to get an eventual
11 subdivision approval once the moratorium was lifted.
12 Q Did you do anything else to determine
13 whether or not you had to submit your plan to the County
14 Planning Commission?
15 A No, I followed the instructions I was given
16 by the Township.
17 Q Why do you believe, if you have a belief,
18 that the Township told you to submit your plan to the
19 County Planning Commission?
20 A I have no idea, except my belief is that
21 they were trying to block or stop or interfere with my
22 development or subdivision of the land and so they were
23 throwing up another road block.
24 Q Why do you believe this was a road block?
25 A Because, obviously, in hindsight, we find

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| <p style="text-align: right;">94</p> <p>1 that it was not necessary to submit this to the Planning 2 Commission at the county level. It was totally false and 3 unnecessary, in hindsight we find this out. 4 Q How did you find it out? 5 A It became obvious when I went and talked to 6 people that were knowledgeable, such as my attorneys here, 7 as to what is required. 8 Q When is it that you found out you did not 9 need to submit your plan to the County Planning 10 Commission? 11 A It would have been in the late spring. 12 Q Of 2000? 13 A Yes. 14 Q What happened when you submitted your plan 15 to the County Planning Commission, what did they do with 16 it? 17 A They came back with a letter, a copy of 18 which has been provided to you, evaluating the plan. 19 Q Contained within that letter they reference 20 the fact that there was a moratorium in Jackson Township, 21 correct? 22 A Yes. 23 Q Did they also review your plan with relation 24 to the proposed ordinance in Jackson Township for 25 subdivision?</p> | <p style="text-align: right;">96</p> <p>1 BY MR. SHERR: 2 Q Mr. Corneal, when we left off we were 3 discussing a letter that you received from the Huntingdon 4 County Planning Commission. You did receive a copy of the 5 letter, correct? 6 A Yes. 7 Q I note that also copied on the letter was 8 Mr. Simpson, who we already discussed, and it indicates 9 Rouzer, R-O-U-Z-E-R, do you know who that is? 10 A May I see that. 11 Q Sure. We can make a copy. I didn't make 12 copies. 13 A I am not sure who that is. I am thinking, 14 but I don't want to be held to this just to help you, but 15 it may be the staff member in the office that may have 16 done part of the review that Mr. Stahl then signed it, I 17 don't know, the name seems to ring a bell. 18 Q It is true, is it not, that the Planning 19 Commission recommended that your proposal be denied, 20 correct? 21 A Yes. 22 Q What is your understanding as to why they 23 recommended that it be denied? 24 A Well, the main thing that they didn't like 25 was the four and a half acre tract of land didn't have</p> |
| <p style="text-align: right;">95</p> <p>1 A I have no idea what they use as a basis, 2 except that it appears that they did, because they 3 reference the proposed plan that they had in their files. 4 Q Do you recall that in that letter they 5 stated, "the Jackson Township supervisors were in the 6 process of adopting a Subdivision and Land Development 7 Ordinance, the following comments are based on the draft 8 of Jackson Township Subdivision and Land Development 9 Ordinance." 10 A Yes. 11 Q Do you recall that? 12 A Yes. 13 Q Then that led you to believe that, in fact, 14 the County Planning Commission reviewed your plan under 15 the proposed subdivision ordinance, correct? 16 MS. MONTGOMERY: Object to the form. 17 MR. SHERR: What is the basis? 18 MS. MONTGOMERY: I didn't understand the 19 question. 20 BY MR. SHERR: 21 Q Do you understand the question? 22 A No, I don't. 23 MR. SHERR: Off the record. 24 (Recess.) 25 MR. SHERR: Back on the record.</p> | <p style="text-align: right;">97</p> <p>1 road frontage and so they -- and the other main reason was 2 the moratorium, as I understood it. 3 Q Did you discuss this letter that you 4 received from the Huntingdon County Planning Commission 5 with anyone? 6 A Yes. 7 Q Who did you discuss it with? 8 A Well, I would have discussed it with Mr. 9 Simpson, because I had him redraft the plan. I probably 10 would have discussed it with McClintic, Max. I certainly 11 discussed it with my wife probably, maybe not, but 12 probably. 13 Q Anybody else? 14 A I think that one of the things in that 15 letter, if I can look at it a second -- there was a 16 question at one point regarding the question of wetlands. 17 Here it is, number 2 on page 1. 18 I have an engineering firm in State College 19 that I hired to -- since the soil maps indicated a 20 possible wetland area where one of the sewage disposal 21 places were, even though the SEO was there and identified 22 the location and, obviously, wouldn't have identified it 23 in the middle of the wetlands, they pointed out something 24 about the property potentially being -- the one sewage 25 site potentially being wetland, as a result, the Township</p> |

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| <p style="text-align: right;">98</p> <p>1 seized on that and said, we can't possibly approve this, 2 there is a potential of your sewage site being on 3 wetlands. 4 I said, Your SEO was there and identified 5 this location, he knows it is not wetlands. Well, we need 6 a certification. Just another roadblock they were 7 throwing up, so that I had to go to the engineer and send 8 him out there again, a second time, and pay them to 9 identify or to certify that this was not wetlands. 10 Q At what point were you told that there may 11 be wetlands? 12 A When the letter came in. When you have 13 200 -- 14 Q Back up. When did you hire Blozsky 15 Associates? 16 A I don't recall exactly when I hired them. I 17 don't remember exactly. I can look at their bills and 18 tell when they did work. 19 Q Do you recall whether it was before or after 20 you attended the February Township meeting? 21 A I don't recall. 22 Q Who was it from the Township that told you 23 that there may be wetlands involved? 24 A Well, several of the supervisors brought it 25 up and Mrs. Worth was quick to jump all over it. Well,</p> | <p style="text-align: right;">100</p> <p>1 stream and I knew how sensitive everybody -- the DEP was 2 with wetlands, so I brought the engineers in to make sure 3 that we weren't violating any of the wetland 4 specifications. 5 Q Did you bring in the engineers before or 6 after the February 2000 Township meeting? 7 A Well, you asked me that before. And I would 8 suspect, now that I had talked to Wilson about putting the 9 road in, that it was probably before. 10 Again, I want to be able to correct that if 11 I am wrong, based on their invoice to me, which will tell 12 me when they did the work for me. 13 Q What prompted you to even consider or worry 14 about wetlands? 15 A Wilson told me that he thought there was 16 some wetlands down in here when I talked to him about 17 doing the road. I said, well we certainly don't want to 18 fill in any wetlands, so that is when I got them involved. 19 Q What did they tell you? 20 A They said, no wetlands where the road was 21 already and where it was going to go, where the driveway 22 was, no problem. 23 Q Did you tell the individuals from the 24 Township who you were speaking to at the March 2000 25 meeting when the subject of wetlands came up that you had</p> |
| <p style="text-align: right;">99</p> <p>1 there may be wetlands here, she says, and we are going to 2 need a certification that this isn't wetlands. 3 I said, your SEO officer reviewed, he picked 4 the sites, there isn't wetlands. Well, we don't know 5 that, so you are going to have to go and send engineers 6 out there to get a certification. 7 Q Where did this conversation take place? 8 A This took place in one of the meetings, one 9 of the Township meetings. 10 Q Did it take place at the February 2000 11 meeting? 12 A No, it took place in I think at the March 13 meeting. 14 Q Do you believe that, even though this letter 15 is dated February 24, 2000, this letter being the 16 Huntingdon County Planning Commission letter that we are 17 discussing? 18 A Well, it happened in March, yes, it happened 19 in March, yes, as I said, at the March meeting. 20 Q Why did you originally hire Blozsky & 21 Associates to conduct the wetlands investigation? 22 A Because I wanted to know, to make sure that 23 I wasn't doing anything wrong in locating my buildings and 24 particularly with regard to putting our driveway in, 25 because our driveway then comes down and goes along the</p> | <p style="text-align: right;">101</p> <p>1 an investigation going? 2 A You are talking about two different things. 3 You are talking about a wetland investigation by a sewage 4 site versus a wetlands investigation regarding the 5 driveway, so whatever showed up there. 6 The SEO was there. He knows what wetlands 7 are. He approved the location to dig the pit. He approved 8 the perk tests that were done in that location and I 9 couldn't fathom and I don't think anybody of rational 10 thinking could fathom that he would have set that location 11 in the middle of a wetland, but that is what the Township 12 tried to -- another roadblock they threw up, well, we 13 don't know, because the Planning Commission questions 14 whether or not there were wetlands there or not. So I had 15 to send them out again to do it, to confirm that there 16 were no wetlands. 17 Q So it is your understanding that whatever 18 was said about wetlands at the March 2000 meeting was 19 based on the Planning Commission letter of February 24, 20 2000? 21 A I don't know what the basis of it was, but 22 it certainly had some basis in the letter from the 23 Planning Commission. I think it was that letter. I didn't 24 thoroughly go through -- didn't it say something about 25 wetlands in there?</p> |

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| <p style="text-align: right;">102</p> <p>1 Q Yes, I think you referenced it earlier --</p> <p>2 A I don't know if -- yes, right. The proposed</p> <p>3 house studio and sewage system for lot number two are</p> <p>4 within these soil types and that is what forced us to go</p> <p>5 back out again.</p> <p>6 Q Was it the County Planning Commission letter</p> <p>7 that required you to go hire Blazosky again or is it</p> <p>8 something that the Township --</p> <p>9 A The Township did. The Township said, We</p> <p>10 want a certification. Look here, the Planning Commission</p> <p>11 said there is a -- we don't know, you are into soil types</p> <p>12 of wetland type soils, so we want you to go and hire</p> <p>13 somebody and certify to us that our SEO didn't put a</p> <p>14 sewage system in a wetland area.</p> <p>15 Q What did you do in response to receiving the</p> <p>16 County Planning Commission letter?</p> <p>17 A Well, the main objection, aside from the</p> <p>18 moratorium, was the fact that this 4.5 acre lot didn't</p> <p>19 have road frontage. The 4.5 acre lot was insignificant,</p> <p>20 it didn't matter didley to me. I was doing it to set it</p> <p>21 aside for one of the kids. So I told Simpson to redraw</p> <p>22 the plan and just cut it down to two lots, the 26 acre lot</p> <p>23 with the house and the barn and the remainder and he did,</p> <p>24 he redrew the plan.</p> <p>25 Q I am going to read you the last paragraph of</p> | <p style="text-align: right;">104</p> <p>1 in that office, if that is his name, then that is who I</p> <p>2 discussed it with.</p> <p>3 Q How did you get to that person who you</p> <p>4 discussed it with?</p> <p>5 A I called the office and they said, oh, this</p> <p>6 so and so reviewed the plan, did the main review on it and</p> <p>7 you should talk to him or maybe it was that Stahl wasn't</p> <p>8 there, why don't you talk to this guy and it turned out</p> <p>9 that he did some of the review or all of the review of the</p> <p>10 plan.</p> <p>11 Q You made changes to your plan based on what</p> <p>12 you learned in that letter or any conversation that you</p> <p>13 had?</p> <p>14 A Yes, I did.</p> <p>15 Q Who made those changes?</p> <p>16 A Simpson made the changes for me.</p> <p>17 Q Do you know whether Simpson in making the</p> <p>18 changes reviewed a draft of the proposed Jackson Township</p> <p>19 Subdivision Ordinance?</p> <p>20 A I don't know that.</p> <p>21 Q Do you know whether he had a copy of the</p> <p>22 proposed Jackson Township Subdivision Ordinance at the</p> <p>23 time?</p> <p>24 A I don't know anybody that had a copy of</p> <p>25 that, with the exception of the Planning Commission,</p> |
| <p style="text-align: right;">103</p> <p>1 this letter, the letter being the February 24, 2000 letter</p> <p>2 from Richard E. Stahl, Planning Director, Huntingdon</p> <p>3 County Planning Commission: "Please contact this office</p> <p>4 with any questions concerning these comments. As always,</p> <p>5 the local municipality is encouraged to carefully review</p> <p>6 the subdivision/sewage module for compliance with Township</p> <p>7 and state requirements."</p> <p>8 In response to this letter, did you contact</p> <p>9 the Planning Commission office?</p> <p>10 A I discussed that letter with one of the</p> <p>11 people that reviewed, and his indication was that the main</p> <p>12 thrust of the problem in his opinion was the lot that</p> <p>13 didn't have any road frontage, because everybody was going</p> <p>14 to be concerned, it was on the other side of the stream,</p> <p>15 how are you going to get access to that lot. I said, That</p> <p>16 lot doesn't mean that much to me. We never discussed the</p> <p>17 fact that -- he never brought up that there was a wetlands</p> <p>18 problem or anything.</p> <p>19 I think these guys just throw a lot of stuff</p> <p>20 in the letters and things.</p> <p>21 Q Do you know who that was that you discussed</p> <p>22 it with?</p> <p>23 A That is why I am saying, it wasn't Stahl,</p> <p>24 but it may have been that guy that was copied, Rouzer, but</p> <p>25 I am not sure of the name. If that is the guy that works</p> | <p style="text-align: right;">105</p> <p>1 because we kept asking for those things and, well, when it</p> <p>2 is all finished and all proofread, you will get a copy or</p> <p>3 you will get the original was the response that we</p> <p>4 normally got at those meetings.</p> <p>5 Q Did you attend the March 2000 meeting of the</p> <p>6 Jackson Township board of supervisors?</p> <p>7 A To the best of my knowledge, I did, yes.</p> <p>8 Q Was that meeting before or after you</p> <p>9 received the February 24, 2000 letter from Huntingdon</p> <p>10 County Planning Commission?</p> <p>11 A I would think that it was after, it was the</p> <p>12 first Monday of March.</p> <p>13 Q What was your purpose in going to that</p> <p>14 meeting?</p> <p>15 A I took my sewer modules there to be signed.</p> <p>16 Q What happened at the meeting?</p> <p>17 A I asked them to sign the sewer modules. They</p> <p>18 basically looked at me and said, What are you doing here?</p> <p>19 I said, I am here to get the sewer modules signed. Oh, we</p> <p>20 are not signing any sewer modules.</p> <p>21 Q Who said that?</p> <p>22 A Well, Wilson said it for one and so did --</p> <p>23 they all kind of chimed in, Yoder, they all looked at each</p> <p>24 other, you agree with that? Yes, I agree, we are not</p> <p>25 signing anything for him.</p> |

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1 Q Did they tell you why they are not signing
2 the sewer modules?
3 A They said they are not signing the sewer
4 module because of their moratorium.
5 Q What did you say?
6 A I said, Forget your moratorium, forget the
7 subdivision, I said, I want to build a house, I have got
8 commitments to build a house and an art studio. I said, I
9 want to get approval to build the house. Forget that, I
10 said, I am not asking you for a subdivision. I am telling
11 you I own a 95 acre piece of ground and I want the sewer
12 modules signed so that I can get permits to build the
13 house.
14 Q Why did you believe that you needed the
15 sewer modules signed to get permits to build the house?
16 A Because DEP had to review sewer modules and
17 they would only review sewer modules that were sent to
18 them via the Township.
19 Q Why did you believe that you had to get the
20 sewer modules signed in order to get permits to build your
21 house?
22 A Because you had to have a septic system or
23 you had to have a sewage system approved by DEP and Wilson
24 told me that.
25 Q Didn't you testify that there was already

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1 on-site sewage with respect to the house and the barn?
2 A The farmhouse.
3 Q Right.
4 A This house was, you know, a quarter of a
5 mile, a half a mile away.
6 Q Did anybody tell you that you needed to have
7 the sewer modules signed by the Township and approved by
8 DEP in order to get a building permit to build your house?
9 A Yes, Wilson told me that.
10 Q When did Wilson tell you that?
11 A When we were doing the system or checking
12 out the locations and doing the perk tests.
13 Q And he told you that you needed this, even
14 if you didn't want to subdivide the property?
15 A Yes, if you were going to build a property
16 and you were going to provide a sewage disposal on the
17 property, you had to have a DEP permit.
18 The only way you got that is you dig a hole
19 in the ground and you found soil types that were suitable,
20 like we did.
21 Then we did a perk test, which we found it
22 perked and were suitable and the SEO signed them and now
23 the Township needed to sign them and they would have been
24 sent on to DEP for an approval and that approval would
25 have taken from what I understood, maybe 5 or 10 days.

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1 Then I could go and I could get my building permit and
2 begin building the site.
3 Q So at the March meeting, the only reason you
4 were given why the Township would not sign the sewer
5 modules was because of the moratorium, is that correct?
6 A No.
7 Q What other reason?
8 A Well, yes and no.
9 Here is the twisted distortion that they
10 took on this thing, which is very interesting. They said,
11 We have a moratorium on subdivisions. I said, I know you
12 do, you told me that. I don't agree with it, but let's
13 forget the subdivision for a minute. I have a 95 acre
14 tract of ground, I have sewer sites approved by your SEO,
15 signed by him. I want permits to build my house, forget
16 about the subdivision, I am not asking you to subdivide
17 it. I am not asking you right now to subdivide this land.
18 I am asking you to give me permits to build my house.
19 Their response was, Oh, wait a minute, if
20 you build two houses on one tract of ground under DEP
21 regulations, that is a subdivision. Therefore, it comes
22 under our subdivision moratorium.
23 Q You were told that at the meeting?
24 A Absolutely.
25 Q Who told you that?

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1 A Well, Ann Wirth was quite joyously saying
2 that, Oh, but you can't do that because, you know, it
3 constitutes a subdivision under DEP, therefore, you can't
4 do it. So did the rest of the supervisors, they all
5 chimed in, Oh, yeah, that's right, you can't do that, you
6 can't do that, so you are still in the subdivision
7 moratorium, therefore, we are not going to sign your
8 modules.
9 Q Did anything else happen at this March 2000
10 meeting?
11 A As I said, their meetings last about 15
12 minutes to a half hour max, not much.
13 Q What else happened?
14 A That is all I know, I mean as far as it
15 affected me.
16 Q That is all I am interested in.
17 A After they adjourned their meeting, I tried
18 to talk to them about it and still, I got the same stone
19 wall. You are still under subdivision and still under a
20 moratorium and we are not going to give you anything.
21 I did ask one other thing, I said, When are
22 your subdivisions going to be approved? The response was,
23 Well, we should approve it in April.
24 MS. MONTGOMERY: Excuse me.
25 A But they didn't.

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1 MS. MONTGOMERY: Can we clarify the record
2 here, because I am not sure I understand what my client
3 just said. Were you talking about the subdivision or
4 subdivision ordinance?
5 A Their proposed subdivision ordinance that
6 they imposed a moratorium on they told everybody was going
7 to be probably approved in April.
8 MS. MONTGOMERY: You didn't say subdivision
9 ordinance the first time, you said --
10 A No.
11 But conveniently, they didn't approve it
12 even though it had been on the books or been in the works
13 for months and months and months, they didn't approve it
14 until a week after my contract ran out with Hewetts.
15 BY MR. SHERR:
16 Q Did you have any discussion with anybody
17 about what happened at the March 2000 Township meeting?
18 A I would have discussed it again with Max
19 McClintic, I certainly discussed it with my wife. I don't
20 know if I would have talked to Simpson about it, because
21 by that time Simpson had been instructed to redo the plan;
22 but I probably discussed it with him. I certainly would
23 have discussed it with Hewetts, because it affected them.
24 Q Was there anybody with you at either the
25 February or March meeting?

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1 A The March meeting the Hewetts were there.
2 Of course, then there was half a dozen people in the
3 audience.
4 Q Anybody that you knew?
5 A No, they were legal local residents.
6 Q After the March meeting, did you commence
7 any construction activity on the property?
8 A No.
9 Q Did you do anything to put a driveway in on
10 the property after the March meeting?
11 A I don't know -- after the March meeting, of
12 course, we did. After the March meeting, did we start
13 construction, yes; but not immediately after then, you
14 have to give me a time frame where you are asking.
15 Q When did you start the construction of the
16 driveway on the property?
17 A Well, as soon as the weather broke, and I
18 suspect that was probably I am going to say April.
19 Q Did you have a permit to put the driveway
20 in?
21 A Didn't need a permit.
22 Q So your answer would be, no, you did not
23 have a permit?
24 A I had no permit that I didn't need, that's
25 right.

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1 On further clarification, as I said, that
2 roadway was already in there, was an entry on to the
3 Township road already, it existed. There was no new road
4 being put in or driveway being put in. What was being
5 done was resurfacing the existing roadway that was there.
6 Q Why is it that you believe that you did not
7 need a permit to do the driveway work?
8 A Because it turns out at their -- in
9 hindsight, in their July -- first of all, I didn't think I
10 needed it, because it was already an existing driveway,
11 that is the first reason.
12 Then as a side issue, in their July 7
13 meeting, when they passed the subdivision ordinance, for
14 the first time they passed a driveway permit ordinance,
15 they never had one prior to that.
16 They did force people, I found out from
17 neighbors, they did force people to pay them fees and
18 force them to cut trees down and do all kinds of stuff to
19 put a driveway in but they had no ordinance for it.
20 Q Who was it you believe they forced to do
21 this?
22 A One of my neighbors had told me about having
23 to do that, I don't remember his name.
24 Q Do you remember anything about him?
25 A Yes, he lives off Miller Road.

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1 Q When did he tell you this?
2 A He told me this in the summer of the year
3 2000. They forced him to cut down some beautiful old
4 trees that were near the entry way to his driveway. They
5 never had an ordinance allowing that, and he said he paid
6 them a fee to put the driveway in.
7 Q Did anybody else tell you that the Township
8 required them to cut down trees or pay a fee for a
9 driveway?
10 A No.
11 Q You thereafter submitted another plan to the
12 Huntingdon County Planning Commission, right?
13 A That's right.
14 Q And you received a letter back from Richard
15 Stahl at the Planning Commission?
16 A Yes.
17 Q This letter recommended conditional approval
18 of the proposed subdivision plan?
19 A Of the two-lot subdivision plan, that is
20 correct.
21 Q And the recommended approval pending
22 adoption of the Subdivision and Land Development
23 Ordinance?
24 A Well, whatever it says, it says. The basis
25 of not recommending approval I understand was their

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1 moratorium.
2 Q Did you receive a copy of the April 20
3 Planning Commission letter?
4 A Yes.
5 Q What did you do after receiving a copy of
6 the letter?
7 A What did I do? In what regard?
8 Q With regard to your attempts to subdivide
9 and build on the property?
10 A Well, they already had blocked me. As far
11 as I was concerned at best I had started a process that
12 was going to help me eventually to get a subdivision,
13 which I should have been entitled to anyhow. So what would
14 I do with it? There was nothing to do with it, except,
15 you know, if I re-submitted it to the Township I would get
16 the same response, we have a moratorium in place, we are
17 not going to approve it.
18 Q Did you attend the April meeting of the
19 Township board of supervisors?
20 A No.
21 Q Did you attend the May meeting of the
22 Township board of supervisors?
23 A I don't believe so, no.
24 Q Did you have any contact with anybody, any
25 official or employee from the Township during April or

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1 Q Who said that?
2 A It was Ann Wirth mainly, but all of them
3 were chiming in at the same -- you can't do that, no, you
4 have got to have sewer in the art studio. If somebody had
5 to go to the bathroom, where would they go? I said, Fine,
6 Tom Wilson, you told me you have a privy permit in this
7 Township, I said, I want a privy permit.
8 Q What did they say?
9 A They said, Well, you will have to talk to
10 the SEO about getting a privy permit. I said, Fine, I will
11 talk to the SEO.
12 So I went home that night and at 10:00
13 o'clock at night I call the SEO. Oh, Dave, he says, I
14 wish you wouldn't be calling me about this. I said, Did
15 somebody call you already from the Township? He said,
16 Yes, they have already called me and they told me you are
17 not allowed to have a privy permit and that I am not
18 allowed to help you get a privy permit.
19 Q Did you ask him why?
20 A He said, you know, I can't talk to you about
21 it, don't put me in the middle of this. I am not allowed
22 to give you help or a privy permit; but, he says, I will
23 talk to Wilson about it and see if we can't clear this up.
24 He says, I will call you in a day or so. I
25 said, Fine; this is Barry Parks.

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1 May?
2 A I don't know if it was April or May. I went
3 to a meeting and it was probably the March meeting and I
4 said, Well, if you won't give me a sewer module for my
5 house, I said, I want to build an art studio. I want to
6 at least get started on construction of my art studio.
7 They said at that meeting, Nope, you can't
8 do that, you have got to have sewer to that art studio. I
9 said, We are not putting sewer into the art studio. Well,
10 you have got to have it.
11 I said, Tom Wilson told me you have a privy
12 permit here, so I want a privy permit, I will put a privy
13 in with the art studio.
14 Q What meeting do you believe this occurred
15 at?
16 A I think this was the March meeting. This was
17 when they hit me with the, Oh, we don't care if your are
18 forgetting about the subdivision or not, we are not going
19 to give you this, because your house requires a sewer
20 module approval and, therefore, it is a subdivision under
21 the DEP regulations.
22 I said, okay, forget that, I said, I want to
23 start the art studio, which didn't have any sewer, so how
24 do I get a permit for the art studio? You can't get a
25 permit for the art studio was the response.

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1 I don't hear anything from Barry Parks for 3
2 or 4 days. So I called him and I put message upon message
3 upon his answering machine: Barry, I need a privy permit
4 so I can start my art studio, and he refused to call me
5 back.
6 Q Did he ever call you back?
7 A No, never called me back.
8 Q Did you do anything else with respect to
9 trying to get a privy permit?
10 A What else could I do? I had asked the
11 Township, they said, you had to go through the SEO
12 officer.
13 The SEO officer was instructed by the
14 Township and the supervisors not to assist me in any way
15 to get a privy permit and he is the only one that could
16 issue one. What else would I do?
17 Q So then your answer is, no, you did nothing
18 else?
19 A Unless there is a supreme SEO officer, no, I
20 did not do anything else.
21 Q The reason you believe that Mr. Parks was
22 told not to help you get a privy permit is based on what
23 Mr. Parks told you?
24 A The reason I believe is that they were
25 absolutely adamant that they were going to interfere with

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1 my construction, subdivision, anything that I wanted to
2 do, they were going to stop, period, that is what their
3 intention was, that is what I believe and I think their
4 conduct demonstrates that.

5 Q Do you know of any reason why they would
6 want to stop you from building this studio?

7 A Well, Mr. Domlin, later on, Van Domlin, said
8 it was because I was a trouble making yuppie from over the
9 mountain.

10 Q When did he say that?

11 A When I went to apply for a building permit.

12 You see then afterwards, I went about the
13 end of April, I decided this is crazy, I have got
14 contractors who are depending upon me, they have given up
15 other work to build my project, I have got to get started
16 with something. So I found out who the building permit
17 officer was.

18 Q How did you find that out?

19 A I think I had found that out earlier when I
20 talked to Ann Wirth. I said, Who is your building permit
21 officer and she told me. So I looked him up and I called
22 him. I called him up on the phone and I said, How do I
23 get to your place? He has a trailer out in the country.
24 I said, I want to come out and get a building permit.

25 I didn't tell him my name. I said I am a

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1 you anything, any permits, applications anything. I said,
2 Why? He said, Because you are that trouble making yuppie
3 from over the mountain.

4 I said, Well, I am not leaving until I
5 resolve this, we have got to get this resolved. He said,
6 Well, I will get on the phone. So he gets on the phone
7 and he calls two or three supervisors, can't reach
8 anybody, he finally reaches Tom Wilson.

9 Now, I am not listening to Tom Wilson's
10 voice, but he says, Yes, Tom, this is Van Domlin, got
11 Corneal here, wants a building permit for a garage. Don't
12 give him anything. We are meeting tomorrow morning -- the
13 supervisors are meeting tomorrow morning to discuss him.

14 That was a Thursday, so they would have been
15 meeting Friday morning. He said to me, After they meet
16 and call me, I will call you and let you know. I said, At
17 least give me an application so I can fill it out. Nope,
18 you are not getting any applications, you are not getting
19 nothing.

20 I said to him, I said, if I were another
21 resident of the county or the Township, and I came into
22 get a permit for a garage, would you give it to him? Yep,
23 sure would. I said, Why won't you give it to me? He
24 said, I already told you, you are that trouble making
25 yuppie and the supervisors told me not to give you

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1 resident out there, a property owner, I want to get a
2 building permit for a garage. He gave me directions to
3 his place.

4 There is a letter confirming our
5 conversation/meeting at the end of April, and I drove out
6 there on a Thursday. You have a copy of the letter that I
7 had sent to him, that will identify the specific day, I
8 think it was the 27th.

9 I guess I made the mistake of introducing
10 myself. Hi, I am David Corneal. All of a sudden this
11 cloud comes over his face, Who are you? David Corneal.
12 What do you want? I am here to get a building permit for
13 a garage. I said, Can I come in? He let me in the door.

14 I said, I have got plans with me, I am
15 building this garage. So I was building a house, an art
16 studio and a garage. I figured I had the one thing that
17 does not need sewer was the garage. It had no water, no
18 sewer at least initially. So I said, I came to get a
19 permit for my garage.

20 Oh, he says, I am not giving you a permit.
21 I said, Well, give me an application for a permit, because
22 your ordinance says that I have to apply under your
23 forms.

24 Nope, not giving you an application either.
25 I said, Why not? He said supervisors told me not to give

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1 anything and I work for the supervisors, so I am not
2 giving you anything.

3 Q Do you know of any other reason, other than
4 what your testimony is that you are this trouble making
5 yuppie from over the mountain, as to why they wanted to
6 prevent you from building on this property?

7 A Well, I think that Tom Wilson wanted his
8 piece of his old family farm, because after the contract
9 was breached by Hewetts, Tom Wilson's nephew approached me
10 and says, Well, I am still interested in buying that
11 property from you.

12 Q Any other reason why you believe any
13 official or employee from the Township was trying to
14 prevent you from building on this property that you owned
15 in Jackson Township?

16 A I think that is more than sufficient that
17 they are going to -- they just wanted, I guess, show me
18 who was boss and who was in control in their Township.

19 Q Did you start building on the property?

20 A Yes.

21 Q When did you start building?

22 A I started building in July.

23 Q Did you have permits to build in July?

24 A No, I waited 90 days.

25 Q You waited 90 days for what?

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1 A Since I was wrongfully denied even the
2 applications.
3 Q Why did you wait 90 days?
4 A Because I had consulted with Mr. Lucas of
5 this law firm.
6 Q And he advised you to -- strike that.
7 A Nope, I am not going to tell you what he
8 advised me.
9 Q I don't want to know. I apologize for that.
10 Did you attend any other Township meetings
11 after the March 2000 meeting?
12 A As I said, I don't think I attended April,
13 but it certainly wasn't anything after April, probably
14 nothing after March.
15 Q Did you have any other conversations with
16 any officials or employees of the Township after your
17 conversation with Mr. Van Domlin?
18 A I tried to discuss this with Newton numerous
19 times, these problems with the solicitor for the
20 Township.
21 Q With anybody else other than Mr. Newton?
22 A With the Township, related to the Township
23 in? No.
24 Q You allege in your complaint that complaints
25 were made with the Army Corps of Engineers and DEP

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1 of hinting that it was the Township or Wilson that had
2 called them and filed a complaint. I am sure we could find
3 that out, who did it. I was just explaining to them why,
4 what would have motivated his complaint or the Township's
5 actions.
6 Q That is what I am trying to find out. Why
7 do you believe that that was motivating Mr. Wilson if he
8 did make the complaint that he lost the job, when, in
9 fact, he told you that he couldn't be involved with the
10 job?
11 A That is your language. I never said he
12 couldn't be involved with the job. He said that he
13 couldn't build the driveway then when it was supposed to
14 have been done. He didn't say he didn't want anything to
15 do with it or that he didn't want the job.
16 I don't know if it was him for sure or not
17 or if it was somebody from the Township that filed a
18 complaint with these people. I wouldn't be surprised if
19 the call didn't come from Ann Wirth.
20 Q Why would that not surprise you?
21 A Because she seemed to be the person taking
22 the lead in many of the obstacles that they were trying to
23 throw in my way.
24 Q But you have no other basis other than what
25 your belief is and what you just testified to, right?

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1 regarding wetlands. What led you to believe that such
2 complaints were made?
3 A Because I was there when the two of them
4 showed up, Army Corps of Engineers and a DEP
5 representative, they said that they had complaints that I
6 was filling in wetlands.
7 Q What if anything did you say to them?
8 A I said, Is this a complaint from Wilson?
9 They smiled and they said, Well, we really can't say who
10 called us. I said, Well, Wilson is not -- has lost this
11 job and I have given it to some other excavator and he
12 would have had the job otherwise.
13 Q When did this conversation take place?
14 A The day that they showed up. You would have
15 to look at their records. It would have been after I
16 started shaling the old driveway.
17 Q Do you know what month this was?
18 A I am guessing it was April sometime.
19 Q This was after Mr. Wilson told you he
20 couldn't be involved any more with your property?
21 A He didn't say he couldn't be involved. He
22 said he wasn't going to put the driveway in for me.
23 Q So why did you tell them Mr. Wilson lost the
24 job?
25 A Why did I tell them? Because they were kind

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1 A You asked me what my belief is and that is
2 my belief. We can easily find that answer out by deposing
3 DEP or the Corps of Engineers and find out who filed the
4 complaint.
5 Q What I am trying to find out, Mr. Corneal,
6 is the basis of your belief and why you believe that it
7 was Ann Wirth or Tom Wilson who called DEP and/or the Army
8 Corps of Engineers with respect to an alleged wetlands
9 violation?
10 A My belief is that it was a continuation of
11 the harassment and the unreasonable restrictions they were
12 placing on me to stop me from doing anything with my
13 property.
14 Whether Wilson was angry that he actually
15 lost the job entirely now, I don't know that. I am just
16 making an assumption. You asked me what I thought, so I
17 am telling you what I thought.
18 But it clearly was Township officials who
19 were trying to continue to interfere with rights that I
20 had in my property. I certainly had a right to re-shale
21 my driveway or a driveway that already was existing.
22 Q You didn't have a right though, did you, to
23 fill in wetlands?
24 A But I wasn't filling in wetlands and I
25 checked that out and they knew I checked that out.

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1 Q How did they know that?
2 A Because they had the report from Blozsky.
3 Q When did they get that report?
4 A They knew about that report. That is how it
5 came up in -- they got a copy of the report from the
6 engineering company at some point. I am sure that if we
7 look at their -- I think if we look at their
8 correspondence, that they copied the Township.
9 Q Now, this is the second report that Blozsky
10 & Associates did that you are referring to, correct?
11 A I don't know if both of them weren't sent to
12 the Township.
13 Q Let's just concentrate on the question. You
14 are referring to a second report that Blozsky did, right?
15 A I am referring -- Blozsky did two reports
16 for me and build me twice, one related to the land, one
17 related to the sewage site. Whether they had gotten a copy
18 of each, I am not sure.
19 Q The second report is the one that you
20 commissioned Blozsky & Associates to do with respect to
21 whether or not any wetlands were impacted by this proposed
22 driveway, correct?
23 A Wrong. That was the first report.
24 Q The second report dealt with --
25 A The SEOs locating a sewage site for our

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1 house.
2 Q Do you believe that the Township got a copy
3 of Blozsky's first report dealing with whether or not any
4 wetlands were impacted by the driveway?
5 A I think so, I don't know that for a fact.
6 Q Why do you believe it?
7 A Because it is standard procedure with
8 engineers that often times -- most of the times they copy
9 the Township engineer or Township officials when they do
10 something that relates to a Township matter or it could
11 relate to a Township matter. Whether they did that in
12 Jackson Township, I don't know.
13 Q Did you bring an action against the Hewetts,
14 I know it is Hewetts and Smith, but referring to them as
15 Hewetts, for breach of contract?
16 A No.
17 Q Why not?
18 A As far as I was concerned, they had made a
19 deposit of \$7,000 and I was not interested -- the guy has
20 a disease, Hewett has a disease, MS, and I just, you know,
21 as far as I was concerned, they forfeited the \$7,000 and I
22 did not pursue it at this point. I have 2 or 3 years,
23 whatever the statute of limitations is.
24 Q You kept the \$7,000?
25 A So far, but we had expenses related to that

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1 of carrying this and his attorney has made demands on me
2 to return the money, so whether I have liability for that
3 or not is still a question.
4 Q Have you made any efforts to sell the
5 property to anybody else?
6 A Yes.
7 Q What efforts have you made?
8 A We let people know, the realtors that I
9 discussed previously, let them know that we had this 26
10 acres and that we had it on the market and we would like
11 to sell it. If they would bring us a buyer, we would be
12 happy to pay them a commission.
13 I had also shown the property to a friend of
14 a neighbor's, who was in the horse business, horse
15 business in the sense of riding horses and raising horses
16 and things like that, he wasn't buying and selling them.
17 Her name was Jeannie Price, and I proposed the property
18 for her and she reviewed it and turned it down.
19 Q Did you enter into any contracts with any
20 relators?
21 A No. You asked if I entered into contracts
22 with relators. Because of my relationship with a number
23 of relators, it is kind of awkward to give a listing to
24 one and not to give it to others. So what I do is I will
25 tell three or four of them that I know, well, that this is

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1 available.
2 Another woman, realtor, did show the
3 property to a gentleman and her name was Beth Richards,
4 she is a realtor as well. That didn't work out, he bought
5 something else.
6 Q Do you consider that property to currently
7 be on the market?
8 A Yes.
9 Q Have you applied for subdivision approval
10 under Jackson Township's Subdivision Ordinance?
11 A No.
12 Q Why not?
13 A Because I don't think I need it.
14 Q Why do you believe that you don't need it?
15 A Let me consult with my attorney a second.
16 (Discussion held off the record.)
17 BY MR. SHERR:
18 Q Mr. Corneal, you had an opportunity to have
19 a conference with your attorney during our break, is there
20 any answers that you would like to amend or change that
21 you have given prior to now?
22 A No, it wasn't anything I wanted to amend.
23 What was the last question?
24 Q The last question was: Why have you not
25 submitted a plan to Jackson Township under the Jackson

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1 Township Subdivision Ordinance?
 2 A My answer was that I didn't have to.
 3 The reason behind that is that on the
 4 morning of July the 7th, which just happened to work out
 5 that way, after consulting with attorneys, I recorded the
 6 deed from Sandy and myself to Sandy for the 26 acre tract
 7 of ground. One of the reasons in doing that was to tender
 8 a deed to Hewetts to mitigate our damages on the loss of
 9 the sale.
 10 Q So on or about July 7, 2000, you and your
 11 wife conveyed to your wife 27 acres of this 98 acre
 12 parcel, correct?
 13 A 95 acres.
 14 MS. MONTGOMERY: I object to the form.
 15 MR. SHEER: What is your objection?
 16 MS. MONTGOMERY: I think you repeated his
 17 statement back incorrectly. You said conveyed and I think
 18 he said recorded.
 19 MR. SHERR: I am not repeating what he said,
 20 I am just trying to --
 21 MS. MONTGOMERY: Okay.
 22 BY MR. SHERR:
 23 Q What went into it?
 24 A We did a deed from the two of us to my
 25 wife, Sandy.

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1 Q That would have been?
 2 A The 26 acres with the house and the barn --
 3 Q That would have been a conveyance from you
 4 and your wife to your wife of this 26 acres, correct?
 5 A Exactly, right.
 6 Q It was your belief that you had the legal
 7 authority to do this?
 8 A Yes. After we discovered that the Township
 9 nor the county had a subdivision ordinance.
 10 Q That deed was accepted for recording?
 11 A It was.
 12 Q Has building commenced on the property?
 13 A Yes. I said, we started with the garage in
 14 July of 2000.
 15 Q Has the garage been completed?
 16 A Yes.
 17 Q Have you started building anything else on
 18 the property?
 19 A Built the art studio.
 20 Q Has that been completed?
 21 A Not quite completed.
 22 Q Is that still being built as we speak?
 23 A Yes.
 24 Q How about a house, did you start building
 25 that?

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1 A The house, yes.
 2 Q Has that been completed?
 3 A No.
 4 Q About how much is completed of the house?
 5 A I wouldn't know percentage-wise. Depending
 6 on what contractor you talk to, it could be 2 months to 3
 7 months away from or 4 months from completion.
 8 Q That building is going on today?
 9 A Yes, it is, I hope it is.
 10 Q How about the driveway, has that been
 11 completed?
 12 A No, never had need for the driveway. Put it
 13 all in, except the bridge, and never had need for it.
 14 Q The bridge is not there?
 15 A No.
 16 Q Why not?
 17 A Because I didn't need it.
 18 Q Why didn't you need it?
 19 A Because I bought the adjoining property next
 20 to this one that had road frontage off Miller Road.
 21 Q When did you purchase the adjoining
 22 property?
 23 A In I think the first of July, the end of
 24 June of the year 2000.
 25 Q How much did you purchase that for?

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1 A I am not sure why that is relevant.
 2 Q How much did you purchase it for?
 3 MS. MONTGOMERY: You can tell him, it is
 4 public record.
 5 A \$365,000 I think.
 6 BY MR. SHEER:
 7 Q Who did you purchase that from?
 8 A Robert Gavazzi.
 9 Q Is it still your intention as you sit here
 10 today to sell part of the property?
 11 A Yes, the house, the barn and 26 acres of
 12 ground.
 13 Q You allege that the moratorium on
 14 development in Jackson Township was imposed in part for
 15 the purpose of impeding your project?
 16 A Yes.
 17 Q What facts do you base that allegation upon?
 18 A There were no other subdivisions. I was the
 19 sole subdivision that was contemplated. There were no
 20 other pending. There was no reason to put a moratorium on
 21 one subdivision, they didn't have a rush of development.
 22 I was a single person.
 23 I believe, I am not totally sure of this
 24 yet, but I believe that they had started their subdivision
 25 draft and everything else prior to issuing a moratorium

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1 and they only issued a moratorium after I became serious
2 about subdividing. I think it was exclusively for my
3 benefit or I should say exclusively for my detriment.

4 Q Any other facts on which you base those
5 allegations?

6 A I think that is enough.

7 Q Who is James Whims, W-H-I-M-S?

8 A Who?

9 Q Do you know who James Whims, W-H-I-M-S, is?

10 A Himes.

11 Q Himes?

12 A H-I-M-E-S.

13 Q Who is that?

14 A That is the attorney friend of mine that I
15 clerked for he and his father in Huntingdon.

16 Q What facts do you believe he has knowledge

17 --

18 MS. MONTGOMERY: Objection.

19 BY MR. SHERR:

20 Q He was listed as somebody who has facts
21 concerning the allegations in this complaint in your
22 self-disclosure, so I am asking what facts he has
23 knowledge about?

24 MS. MONTGOMERY: I am going to caution my
25 client to be careful about the attorney/client privilege.

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1 Q I understand.

2 A I had contacted Rouzer and was told that
3 they needed the submission on the approved modules from
4 Jackson Township before they would take action on it.

5 Q Did you construct, along with your garage,
6 your art studio and your house, an on-lot sewage system?

7 A No.

8 Q Do you intend to do that?

9 A Yes.

10 Q At what point do you intend to do that?

11 A As soon as the spring hits and I can get
12 approvals.

13 Q Who do you believe you have to get approvals
14 from?

15 A We already submitted stuff to the Township
16 through Terry Williams in State College and I have had a
17 sewage system designed by an SEO that used to be in that
18 area who now comes in and does consulting. She submitted
19 that design of the on-site septic system, which will
20 function properly for its use, to Barry Parks, and he has
21 not acted on it in any way that I know of.

22 Q Do you know why he hasn't acted upon it?

23 A I have no idea.

24 Q Do you have a belief?

25 A Simply part of the process here to inhibit

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1 A Mr. Himes spent a great deal of time trying
2 to get Mr. Newton to respond to the problems that were
3 associated with what the Township was doing and he has
4 documented -- from what I understand -- he has documented
5 each telephone call, each meeting with Mr. Newton and the
6 resistance of Mr. Newton in responding.

7 BY MR. SHEER:

8 Q Any other facts which you believe he has
9 knowledge of?

10 A Facts, I don't know.

11 Q Who is Steven Lavitsky?

12 A He is the fellow from the engineering firm
13 that did the work.

14 Q That would be Blozsky?

15 A Right.

16 Q Have you had any contact with the Department
17 of Environmental Protection concerning the property or
18 your attempts to subdivide and/or build on the property?

19 A Direct contact with them?

20 Q Yes.

21 A I called the fellow who was in charge of
22 that area, I think his name was Rouzer -- come to think of
23 it, that is what Rouzer is, Rouzer is the guy from DEP,
24 and I am referring to the bottom of the Planning
25 Commission letter.

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1 my development of the land. There is no legitimate basis
2 for him refusing to act on it.

3 Q Do you intend to put this sewage system in
4 regardless of whether you get approval?

5 A I will not put a sewage system in without
6 DEP's approval. If I have to put a holding tank in, then
7 I will put a holding tank in; but I have no intention of
8 -- DEP didn't do anything wrong to me and they have a
9 right to pass on the availability of the sewer system that
10 we propose and I intend to honor that obligation to go
11 through them.

12 Q Do you believe that you have any
13 out-of-pocket expenses as a result of what you claim to be
14 the wrongful acts of the Township?

15 A No question about that.

16 Q What out-of-pocket expenses do you believe
17 that you have as a result of what you believe to be the
18 wrongful acts of the Township?

19 A I have the expenses related to the
20 engineers.

21 Q That would be Blozsky?

22 A That's right, correct.

23 Q Why do you believe that you had those
24 expenses as a result of the wrongful acts of the Township?

25 A Because the Township forced me to send him

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1 back out there to assess the location that their SEO put
2 the sewer site on.
3 Q So you believe that the expenses that you
4 would have with respect to the engineer would be only
5 related to the second report and not the first report?
6 A That's right.
7 Q What other out-of-pocket expenses do you
8 believe you have?
9 A Well, I lost the sale of the property to the
10 Hewetts.
11 Q Why do you believe you have out-of-pocket
12 expenses as a result of losing that sale?
13 A I have big time out-of-pocket expenses,
14 because the \$150,000 I was getting from that was going to
15 be used for construction of the property, of the
16 buildings. As a result of not getting that \$150,000, I
17 had to go to Mellon Bank and refinance the one property on
18 College Avenue, the 1445 West College, where I drew out a
19 little less than \$150,000 in equity.
20 I went from a 7 and a half percent interest
21 rate to an 8 and three-eighths percent interest rate and I
22 had to pay fees to them and I also got nailed with a
23 no-prepayment penalty, which I didn't have in my previous
24 contract, my financing contract with them.
25 So now the interest rates have dropped, I

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1 can't refinance without paying a fee, a big fee. So I
2 have got the difference between 8 and three-eighths
3 percent and 7 and a half percent on the monthly payments,
4 on the interest on that refinancing.
5 Plus, I don't know what I am going to be
6 able to sell the property for. So if I sell the property
7 at a lesser amount, obviously, then I have that loss.
8 Plus I also have, you know, the loss of the use of those
9 funds, since the Hewetts would have paid me no later than
10 June the 30th, which they didn't.
11 Q When did you refinance?
12 A I waited until the last possible minute,
13 because I was reluctant to do it; but I think I refinanced
14 about 3 months ago, 4 months ago.
15 Q Any other out-of-pocket expenses that you
16 believe that you suffered as a result of wrongful actions
17 of the Township?
18 A Sure, I had to send Simpson back and
19 redesign and redesign and resubmit these plans. Every
20 time he did it, there was several thousand dollars in
21 surveying costs and duplication and all of that.
22 I don't have the exact number that would be
23 attributable to him above and beyond his survey that I
24 wanted that would relate.
25 I can pull the bills out and identify what

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1 was necessitated by the demands of the Township and the
2 County Planning Commission.
3 Q Anything else?
4 A I have legal fees.
5 Q Legal fees associated with what?
6 A Associated with this lawsuit.
7 Q The lawsuit we are here about today?
8 A That's right.
9 Q Any other legal fees?
10 A I have legal fees with Terry Williams trying
11 to work through the DEP permitting.
12 Q Was that caused in some way by, that being
13 with Terry Williams' legal fees, caused in some way by any
14 act of the Township?
15 A Yes, the Township tried to stop me from
16 construction.
17 Q So it is your testimony that the only reason
18 that you retained Terry Williams' services was because the
19 Township tried to stop you from --
20 A No. That is one of the reasons I retained
21 him. The other reason was to try and get the DEP permits
22 so when we finish the construction of the properties, that
23 we can install the sewage systems.
24 Q When did you first consult with Mr.
25 Williams?

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1 MS. MONTGOMERY: I am going to object the
2 time frames.
3 A I don't remember when it was.
4 MS. MONTGOMERY: I think the time which a
5 person consults with their attorney --
6 MR. SHERR: It is not privileged, absolutely
7 not privileged. When he first consulted with an attorney
8 or if he consulted with an attorney is not privileged.
9 What was consulted with is privileged.
10 A I can't remember exactly when I started
11 talking to Terry about this. I would probably say 6 to 8
12 months ago.
13 BY MR. SHEER:
14 Q Any other out-of-pocket expenses that we
15 haven't discussed that you feel you suffered as a result
16 of the accident?
17 A As I said, I had to sue these people because
18 they wouldn't give me the applications or permits, so I
19 had, you know, the private service fee of 300 and some
20 dollars.
21 Q Anything else?
22 A Well, I would have to say that I had to
23 maintain a property and pay the taxes on the property that
24 would have been sold to Hewetts and not been my expenses
25 that are my expenses now.

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|---|--|
| <p style="text-align: right;">142</p> <p>1 Q Anything else?</p> <p>2 (Discussion held off the record.)</p> <p>3 BY MR. SHERR:</p> <p>4 A I have now had to hire experts that I am</p> <p>5 getting reports from in the area of the Planning and</p> <p>6 Municipal Law or Application of Municipal Law, so we are</p> <p>7 paying them. We don't know exactly what those costs are</p> <p>8 going to be.</p> <p>9 If I think of any more, I will let you know.</p> <p>10 (Discussion held off the record.)</p> <p>11 BY MR. SHERR:</p> <p>12 Q You told me specifically some things that</p> <p>13 were done by Mr. Wilson and by Ms. Wirth.</p> <p>14 I just want to ask you with respect to the</p> <p>15 other individual defendants, and I am going to start with</p> <p>16 Mr. Yoder, other than being at Township meetings that you</p> <p>17 were also at, did you have any dealings with Michael</p> <p>18 Yoder?</p> <p>19 A The dealings I had with him, as well as Mr.</p> <p>20 Weiler, both of them, I talked to directly at the Township</p> <p>21 meetings and I told them, you can't do this stuff. They</p> <p>22 all unanimously agreed that they are going to do it</p> <p>23 whether I liked it or not and that is too bad. That kind</p> <p>24 of response was given to me.</p> <p>25 Q Other than any contact which you had with</p> | <p style="text-align: right;">144</p> <p>1 you agree, yes, that is right, we are not doing it. So</p> <p>2 that is the contact I have had with them.</p> <p>3 Also, the exception, that from what I</p> <p>4 understand from my discussion with Van Domlin, that these</p> <p>5 guys were meeting out of formal meetings to discuss me and</p> <p>6 how they were going to treat me.</p> <p>7 Specifically, Van Domlin said that the</p> <p>8 Township supervisors were meeting that Friday morning to</p> <p>9 discuss me and what they are going to do about my request</p> <p>10 for applications for building permits.</p> <p>11 So I can only take from that that they, in</p> <p>12 fact, did meet or have met on several occasions, at least</p> <p>13 one occasion that I am pretty sure occurred, outside of a</p> <p>14 formal meeting to discuss Township business, specifically,</p> <p>15 preventing me from building.</p> <p>16 MR. SHEER: I have no other questions at</p> <p>17 this time. Thank you very much.</p> <p>18 MS. THORP: I have no questions.</p> <p>19 MS. SIMPSON: I have a few questions.</p> <p>20</p> <p>21 CROSS-EXAMINATION</p> <p>22</p> <p>23 BY MS. SIMPSON:</p> <p>24 Q At the February 2000 Jackson Township</p> <p>25 supervisor meeting where you presented your plan, was</p> |
| <p style="text-align: right;">143</p> <p>1 Mr. Yoder at a Township meeting, did you have any contact</p> <p>2 with him otherwise?</p> <p>3 A No.</p> <p>4 Q Same question for Ralph Weiler, did you have</p> <p>5 any contact with Mr. Weiler at any other time, other than</p> <p>6 at a Township meeting?</p> <p>7 A No.</p> <p>8 Q Can you tell me anything that Mr. Yoder</p> <p>9 specifically said at a Township meeting with respect to</p> <p>10 your attempts to subdivide and build on this property?</p> <p>11 A He said they had a moratorium on -- both of</p> <p>12 these guys said this -- we have a moratorium on --</p> <p>13 Q Both of these guys, just so we are clear,</p> <p>14 that is Mr. Yoder and Mr. Weiler?</p> <p>15 A Right. Said at different times at different</p> <p>16 meetings that you aren't getting what you want, because we</p> <p>17 got a moratorium on and we are not going to allow you to</p> <p>18 do this.</p> <p>19 Then when I came up that I don't care about</p> <p>20 the subdivision at this moment in time, give me my sewer</p> <p>21 modules, then they all agreed that, no, that was a</p> <p>22 subdivision under DEP and, therefore, we are not going to</p> <p>23 sign your sewer modules under that.</p> <p>24 So all three of them said it at one point or</p> <p>25 another or concurred, you know, they turned to each other,</p> | <p style="text-align: right;">145</p> <p>1 Larry Newton present?</p> <p>2 A Excuse me, offered my plan.</p> <p>3 Q Offered you plan, sorry.</p> <p>4 A That is okay, I just wanted to clarify.</p> <p>5 Q Was Larry Newton present?</p> <p>6 A No.</p> <p>7 Q Was Attorney Newton present at the March</p> <p>8 2000 supervisor's meeting?</p> <p>9 A No. However, as a result of the February</p> <p>10 meeting, I sent Mr. Newton a letter indicating to him the</p> <p>11 wrongfulness of their conduct and the fact that it was</p> <p>12 going to affect my contract with Hewetts or potentially</p> <p>13 could affect the contract with Hewetts and that would he,</p> <p>14 please, contact me and follow up with this to discuss</p> <p>15 correcting the problem.</p> <p>16 Then I also followed up with many telephone</p> <p>17 calls to Mr. Newton, all of which went unanswered. That I</p> <p>18 can remember, he never returned a telephone call that I</p> <p>19 made to him.</p> <p>20 He took one of my telephone calls that I</p> <p>21 made to him; but that was the only time I ever discussed</p> <p>22 things with him.</p> <p>23 Q What did you discuss in that call?</p> <p>24 A I was talking to him about the sewer modules</p> <p>25 at that point, that was after the March meeting.</p> |

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1 I said, I have got approvals of your SEO, I
2 have got signatures on the sewer modules. There is
3 absolutely no reason for the Township not to sign them and
4 something has to be done.

5 His response was the same, I will get back
6 to you. Never called me back, never did a thing about
7 it. I will check into it and get back to you.

8 Same way when I had the situation with Van
9 Domlin where they wouldn't even give me applications. I
10 wrote Larry a letter the day afterwards and I sent him a
11 copy of the letter I sent to Van Domlin.

12 I said in the letter to Van Domlin, hey, if
13 you don't agree with anything I said in this letter,
14 please, respond in writing. He never responded in
15 writing, neither did Larry. Larry did absolutely nothing
16 to correct a problem.

17 Then his partner in law was the one who
18 wrote the letter and said on May the 1st, hey, it is
19 obvious you are not going to get subdivision approval, so
20 the Hewetts, my clients are cancelling the contract. Now,
21 where would he have heard that?

22 Q Who is Larry Newton's partner?

23 A Harvey Reeder. They own a building and
24 share office space together, whether they are truly
25 partner/partner, I don't know, but they have the same fax

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1 A Because he was the Township solicitor, he
2 was the guy giving them advice to put the moratorium on.

3 Q How do you know that?

4 A Because they told me at the meeting. They
5 said, well, according to our attorney.

6 Q What did they say specifically?

7 A Like I just said, I said, you can't have a
8 moratorium like you have. They said, Not according to our
9 attorney.

10 Q So I understand this, the supervisors said
11 that their attorney told them that the moratorium was okay
12 or that their attorney told them to put a moratorium in
13 place?

14 A I have no idea what their attorney told
15 them.

16 Q What did they tell you?

17 A I just said what they told me, not according
18 to my attorney.

19 Q In response to what?

20 A I said your moratorium is illegal, it is
21 improper, you can't do it. They said, Not according to my
22 attorney.

23 But then I followed later on with -- or
24 tried to follow up with Larry to even get a copy of the
25 resolution passing the moratorium and he wouldn't give it

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1 machine, the same fax number, same secretary, the same
2 everything. Sounds like a partner.

3 Q How do you know they have the same
4 secretary?

5 A Because I called them, I called them
6 numerous time, always got the same woman, You want Larry
7 or you want Harvey? I say that as an assumption, I don't
8 know it for a fact.

9 Q Is it also an assumption that Mr. Reeder
10 learned of the difficulties with the approval process from
11 Mr. Newton?

12 A Yes, that is correct, I have no direct
13 knowledge of that.

14 Q What duty did you believe Mr. Newton had to
15 you?

16 MS. MONTGOMERY: Objection, you are asking
17 him for a legal conclusion, it is not appropriate.

18 MS. SIMPSON: I will rephrase it.

19 BY MS. SIMPSON:

20 Q Do you believe Mr. Newton owed you some
21 response to your inquiries?

22 A He sure did.

23 Q Why?

24 A Why?

25 Q Yes.

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1 to us and that is where Jim Himes had call after call,
2 meeting after meeting, trying to get the information from
3 him.

4 The same way with permits. I said, I want a
5 building permit, application. And he stonewalled me on
6 it, totally stonewalled me on it.

7 Then finally, in the end of August, he wrote
8 me a letter and said, Oh, so sorry that we haven't sent
9 you this, here it is.

10 Q What was it that you obtained at the end of
11 August?

12 A An application for a building permit.

13 Q What did you do with those?

14 A I filled them out immediately and sent them
15 with everything they required, including their fees.

16 Q Then what happened?

17 A Nothing. They sat on it for 45 days. Then
18 Van Domlin wrote me a letter saying, you don't comply with
19 our subdivision ordinance -- which, of course, I wasn't
20 asking for at that point -- so, therefore, we are denying
21 your building permits.

22 So then we filed under their rules to have a
23 hearing about his denial within 30 days. They are
24 supposed to give me a hearing within 30 days. Do you know
25 how that hearing came out, there was none.

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1 Q What happened?
 2 A Nothing. Absolutely nothing. They ignored
 3 me.
 4 Q You submitted a request for hearing?
 5 A Uh-huh, in writing.
 6 Q You got no response to that?
 7 A Right.
 8 Q Who was that filed with?
 9 A That was filed with the Township secretary.
 10 Under their ordinance, they are supposed to have a
 11 hearing.
 12 Q Of the damages that you have outlined, are
 13 there any that are specifically attributable to the
 14 conduct of Attorney Newton?
 15 A Yes, I lost a contract.
 16 Q By that contract you are talking about the
 17 contract for the sale of the property to Hewett and Smith?
 18 A Smith.
 19 Q Specifically, what is it that you believe
 20 that Mr. Newton did to cause you to lose that contract?
 21 A I think that he had involvement with the --
 22 with his partner there, Harvey Reeder, to interfere with
 23 my contractual relationships with the Hewetts. They
 24 cancelled the contract.
 25 Read Reeder's letter, he says, "It is

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1 obvious you are not going to get your approvals by the
 2 June 30." He is writing that May 1st, 2 months
 3 previously. It is obvious you are not going to get
 4 approvals for your subdivision, therefore, my clients are
 5 cancelling the contract.
 6 Q Aside from this belief that you formed from
 7 the text of the letter that was sent to you, what evidence
 8 do you have that Mr. Newton spoke with Mr. Reeder about
 9 the approval process and its --
 10 A I don't have evidence with regard to that
 11 but it certainly seems rather obvious. They say if it
 12 walks like a duck and talks like a duck, it probably is a
 13 duck.
 14 Q Was the meeting that you attended of the
 15 Township supervisors in February of 2000 recorded in any
 16 way?
 17 A How they record their meetings, I don't
 18 know, I don't remember seeing a tape recording or whether
 19 the secretary was taking notes. One of the two was
 20 occurring, I don't know exactly what.
 21 Q Have you ever searched the record of the
 22 Township to check the minutes of the meetings that you
 23 attended?
 24 A The Township doesn't have an office, so,
 25 therefore, there is no records available that I know of.

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1 The records that we asked for were records
 2 asked of Newton to deliver to us and it went for months
 3 and months and months and he refused to -- or just ignored
 4 delivering the records.
 5 Q What records did you ask him to deliver?
 6 A I asked him specifically for the resolution
 7 authorizing the moratorium.
 8 Q Did you ever ask anybody for minutes of
 9 meetings?
 10 A I didn't. I think Jim Himes did, but I
 11 don't know. The minutes of those meetings that I saw, if
 12 they are like the January minutes, were less than a half a
 13 page long or a third of a page.
 14 As I said, they only hold meetings for 15 or
 15 20 minutes.
 16 Q That was your experience?
 17 A That was my experience in going to two
 18 meetings and seeing the January notes of the minutes of
 19 that meeting.
 20 MS. SIMPSON: I have no other questions.
 21 MR. SHERR: I have no questions.
 22 (Discussion held off the record.)
 23 MR. SHERR: We have had a discussion off the
 24 record concerning Mrs. Corneal, who has sat through this
 25 deposition today and who I did notice as a party to the

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1 lawsuit.
 2 I believe our agreement is that I will be
 3 informed through discovery the belief or the necessity to
 4 have Mrs. Corneal testify or that she has matters which
 5 she has independent knowledge about and then we will
 6 reschedule her deposition.
 7 I don't know if I stated that artfully, but
 8 you can probably help me out.
 9 MS. MONTGOMERY: That is not quite the
 10 agreement.
 11 The agreement is that, although, you noticed
 12 them both for today and they both came today, this was a
 13 very long deposition and nobody wants to stay any longer.
 14 We will reproduce her on another day, we are
 15 not going to stonewall you on that.
 16 We will not agree, as you suggested, that
 17 she wouldn't testify, we won't agree to that. She is
 18 listed as a witness in our initial disclosures. I think
 19 you have to make an independent judgment whether or not
 20 you want to depose her.
 21 MR. SHERR: I will do that. All I am saying
 22 is in order to avoid inconveniencing her and rather than
 23 just noticing her again and bringing her back, if there is
 24 some reason for her deposition, perhaps you can inform me
 25 of that or that she would have knowledge that a deposition

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1 may be necessary. I guess what I am saying is if you give
 2 me some reason to do it, I will do it, otherwise, I won't
 3 do it. I understand that you don't want to commit either
 4 way.

5 MS. MONTGOMERY: She is listed as a
 6 potential witness, listed as a person with information.
 7 How much information might be very small. We don't know
 8 how this case is going to develop. With all due respect,
 9 it is not my job to figure out who you want to depose. I
 10 don't want to say anything that limits my ability to her
 11 as a witness and ask her anything I want when we get
 12 there.

13 MR. SHERR: I am not asking you to limit
 14 that. It is no skin off my nose to depose her or not
 15 depose her, I could care less; except that I don't see the
 16 need to inconvenience her if the deposition is unnecessary
 17 is the issue.

18 MS. MONTGOMERY: Understood.
 19 (The deposition concluded at 4:35.)
 20
 21
 22
 23
 24
 25

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1 STATE OF PENNSYLVANIA : ss.
 2 COUNTY OF DAUPHIN :
 3

4 I, Patricia C. Barrett, a Reporter
 5 Notary-Public, authorized to administer oaths within and
 6 for the Commonwealth of Pennsylvania and take depositions
 7 in the trial of causes, do hereby certify that the
 8 foregoing is the testimony of David B. Corneal.

9 I further certify that before the taking of
 10 said deposition, the witness was duly sworn; that the
 11 questions and answers were taken down stenographically to
 12 the best of my ability by the said reporter Patricia C.
 13 Barrett, a Reporter Notary-Public, approved and agreed to,
 14 and afterwards reduced to typewriting under the direction
 15 of the said Reporter.

16 I further certify that the proceedings and
 17 evidence contained fully and accurately in the notes by me
 18 on the within deposition, and that this copy is a correct
 19 transcript of the same.

20 In testimony whereof, I have hereunto
 21 subscribed my hand this 16th day of March 2001.
 22

23 Patricia C. Barrett, Reporter
 24 My commission expires:
 25 May 13, 2003

Exhibit 8

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID B. CORNEAL AND SANDRA Y.
CORNEAL,
Plaintiffs

VS

NO. 1:00-CV-1192

JACKSON TOWNSHIP, Huntingdon
County, Pennsylvania, W. THOMAS
WILSON, Individually and in his
Official Capacity as Supervisor
of Jackson Township, MICHAEL
YODER, Individually and in his
Official Capacity as Supervisor
of Jackson Township, RALPH
WEILER, Individually and in his
Official Capacity as Supervisor
of Jackson Township, BARRY PARKS,
Individually and in his Official
Capacity as Sewage Enforcement
Officer of Jackson Township,
DAVID VAN DOMMELEN, Individually
and in his Official Capacity as
Building Permit Officer, ANN I.
WIRTH, Individually and in her
Official Capacity as Secretary
of Jackson Township, and
LARRY NEWTON, Individually and in
his Official Capacity as Solicitor:
to Jackson Township,
Defendants

JURY TRIAL DEMANDED

DEPOSITION OF: DAVID SIMPSON

TAKEN BY: DEFENDANTS

BEFORE: NICOLE L. ZIMMERMAN
NOTARY PUBLIC

DATE: JULY 10, 2001, 1:10 P.M.

PLACE: THE DAYS INN
240 SOUTH PUGH STREET
STATE COLLEGE, PA 16801

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INDEX

BY DEFENDANTS

EXAMINATION

DAVID SIMPSON

By Mr. Sherr

By Ms. Montgomery

4
25

EXHIBITS

SIMPSON'S EXHIBITS

MARKED

PRODUCED

No. 1 - Notice of Deposition and
and Subpoena

4

6

STIPULATION

It is hereby stipulated by and between

counsel for the respective parties that sealing,
certification, and filing are waived, and that all
objections except as to the form of the question are
reserved to the time of trial.

DAVID SIMPSON, called as a witness, being
sworn/affirmed, testified as follows:

(Notice of Deposition and Subpoena premarked
Simpson Exhibit No. 1.)

EXAMINATION

BY MR. SHERR:

Q Could you please state your full name for
the record?

A David Allen Simpson.

Q What's your address, Mr. Simpson?

A Rural Route 1, Box 284-A, Huntingdon,
Pennsylvania, that's with a D, and the zip code is
16652.

Q Mr. Simpson, I just met you a couple minutes
ago. My name is Anthony Sherr. I represent Jackson

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1 Township and some individual defendants in a lawsuit
2 filed against them by David Comeal and Sandra Comeal,
3 which is currently pending in the United States
4 District Court for the Middle District of Pennsylvania.

5 We're here today to take your deposition
6 pursuant to a subpoena. Have you ever been deposed
7 before?

8 A No.

9 Q I just want to give you some ground rules.
10 I'm going to be asking you some questions, you've been
11 placed under oath and expected to answer truthfully. I
12 ask that you give all of your answers out loud, orally
13 so that the court report can take it down.

14 She can't take down nods of the head or
15 shrugs of the shoulder and that sort of thing, so I ask
16 that you answer orally.

17 I ask that you wait until I'm done asking my
18 question before giving an answer, and likewise, I'll
19 wait until you're done answering before asking another
20 question.

21 If you don't understand my question, please
22 ask me to clarify it. If you don't hear my question,
23 please ask me to repeat it. If you answer the
24 question, we're going to assume that you both heard and
25 understood the question.

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7

1 A Okay, they would be --

2 Q I mean, do you have them and we can just
3 flip through them and you could just, for the record,
4 state what they are?

5 For the record, I just want to generally
6 state what you have here. First is a plan showing the
7 David B. and Sandra Y. Comeal property dated December
8 27, 2000. Is there a number of copies of this?

9 A Right, there are numerous copies and copies
10 of drawings that were used during the construction of
11 that final plan.

12 Q Okay. And that there's also plans dated
13 February 4, 2000; April 7, 2000, and that's the first
14 packet. The second packet of plans --

15 A Those would be the final subdivision plans.

16 Q The second packet of plans is dated February
17 4, 2000, and then there's also a plan of proposed
18 subdivision dated April 7, 2000, and there's one
19 December 27, 2000. So these are the final plans, what
20 we talked about first were sketches and drafts, I
21 suppose?

22 A That's correct.

23 Q And what is that next packet?

24 A This particular drawing is a copy of the
25 Huntingdon County tax map for Jackson Township showing

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1 If you need to take a break for any reason
2 during this proceeding, please let us know, and we'll
3 accommodate that. And Ms. Montgomery is here, who
4 represents David Comeal in this matter, and she may
5 have some questions for you after I've completed asking
6 you questions, okay?

7 A Yes.

8 Q I placed in front of you what I've had
9 marked as Simpson Exhibit 1 and I've asked you to look
10 at that and you reviewed that, correct?

11 A Yes.

12 Q And that's the Notice of Deposition and
13 Subpoena for you for attendance here today, right?

14 A Yes.

15 Q And the second page of the subpoena has a
16 request for documents?

17 A Yes.

18 Q Did you bring documents with you today?

19 A Yes, I did.

20 Q What documents did you bring with you today?

21 A Everything that I collected and assembled
22 during the course of preparing a subdivision proposal
23 for the Comeals.

24 Q And could we just briefly go over what those
25 documents are?

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1 the properties in the area of the Comeals.

2 Q And you got this from the county courthouse?

3 A That's correct.

4 Q What are the rest of those documents?

5 A These are, again, various drawings that were
6 used during the construction phase or the layout design
7 for the subdivision and also some background
8 information relating to other properties.

9 Q Okay. And you also have, it looks like an
10 overlay, 1996 D.A. Simpson survey overlaps the 1975
11 F.D. Gay survey. What is this document that I'm
12 looking at?

13 A That's showing the information pertinent to
14 a boundary discrepancy that we found between the
15 Comeal property, which at the time of my initial
16 involvement in here was -- my survey was for Paul and
17 Katherine Michael, the previous owners of the property.

18 Q And so these documents that I'm looking at
19 right now were done to deal with this border dispute?

20 A Those particular documents were done to put
21 the information on a sheet of paper for Mr. Comeal so
22 that he could understand the background of that
23 particular boundary.

24 Q Now, you've also provided a manila folder
25 that says Comeal, David B. and Sandra Y., Jackson

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1 Township, Huntingdon County, subdivision of the former
 2 Paul and Katherine Michael property. And is this your
 3 file related to Mr. Corneal?
 4 A Yes, it is.
 5 Q You've also provided us with a file that
 6 says Paul L. Michael, M-I-C-H-A-E-L, Jackson Township,
 7 Huntingdon County and you had worked for Mr. Michael on
 8 the same property prior to being engaged by
 9 Mr. Corneal?
 10 A That's correct.
 11 Q And another file for Paul L. Michael. I
 12 guess that would be the second part of that same file?
 13 A Yes.
 14 Q And you've finally provided three it would
 15 appear to be calendars. And why did you provide these
 16 calendars?
 17 A Those would have information of the various
 18 times that I was working on Mr. Corneal's subdivision.
 19 MR. SHEER: Off the record for a second.
 20 (Discussion held off the record.)
 21 BY MR. SHEER:
 22 Q Did you review anything in preparation for
 23 today's deposition?
 24 A No, I didn't.
 25 Q Did you discuss today's deposition with

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1 Q And did you have any other technical or
 2 vocational training after those two years?
 3 A The requirement for licensing as a surveyor
 4 in Pennsylvania requires that you serve a six-year
 5 apprenticeship under a licensed engineer or a licensed
 6 surveyor before you can make application to take the
 7 registration examination.
 8 Q And did you take the examination?
 9 A Yes, I did.
 10 Q When did you take the examination?
 11 A My license is dated, I think, March of 1978.
 12 Q And that's licensed as a registered surveyor
 13 in the State of Pennsylvania?
 14 A Yes.
 15 Q Are you licensed in any other state?
 16 A No.
 17 Q Do you have continuing education
 18 requirements?
 19 A No, as of now, there are no requirements for
 20 that.
 21 Q Do you have to renew the license
 22 periodically?
 23 A Yes, every two years.
 24 Q Are you familiar with Jackson Township?
 25 A In what respect?

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1 anybody?
 2 A I told several people that I had a
 3 deposition to attend, certainly I had no way of
 4 discussing the content.
 5 Q Did you talk to Mr. Corneal about it?
 6 A No.
 7 Q When is the last time you saw Mr. Corneal
 8 before today? You're referring to your 2001 calendar?
 9 A Yes. I think it was January 3, this year,
 10 2001.
 11 Q And on what occasion did you see him?
 12 A I delivered five copies of the survey plans
 13 to him.
 14 Q Were these new survey plans or were they
 15 survey plans that had previously been done?
 16 A I think they would have been the copies of
 17 the December 2000 survey.
 18 Q I just want to get a little of your
 19 educational background. What's the highest level of
 20 formal education that you completed?
 21 A I attended two years of Penn State at the
 22 Penn State campus in Mont Alto, Pennsylvania, in
 23 surveying technology.
 24 Q And what years were they?
 25 A That would have been until June of 1972.

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1 Q Well, just generally with respect to
 2 development of land in Jackson Township.
 3 A As far as I knew up until just more
 4 recently, there was no township subdivision or zoning
 5 ordinance governing requirements of subdivision.
 6 Q Were you familiar with the board of
 7 supervisors of Jackson Township?
 8 A Not really, no.
 9 Q Prior to working on what was first the
 10 Michael property and then the Corneal property, had you
 11 done any other work in Jackson Township?
 12 A Yes, I'm sure I did, although, I can't
 13 specifically recall what particular properties.
 14 Q Do you recall when you were first contacted
 15 by Mr. Corneal to do anything for his property?
 16 A I would have to check the —
 17 Q Could you, please? And you're looking now
 18 at your 1999 calendar?
 19 A Yes. The one file that I have with
 20 Corneal's name on it, there might be something in there
 21 that would save me time.
 22 I have what I think to be my first meeting
 23 with Mr. Corneal as July 8, 1999.
 24 Q And there is a little piece of paper with
 25 handwritten notes which indicated that to you?

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1 A Yes, that's correct.

2 A I see in the 1999 calendar book, references
3 to Mr. Corneal prior to that. I have a note in the '99
4 calendar book of having met with Mr. Corneal on the
5 site of his property Saturday, June 26, 1999.

6 Q Do you recall what it was that Mr. Corneal
7 asked you to do?

8 A At that time of the Saturday meeting, I have
9 noted that it was a meeting on site for review of
10 proposed subdivision requirements.

11 Q And you met him on the site, and the site
12 being his property in Jackson Township?

13 A That's correct.

14 Q And you say for review of proposed
15 subdivision requirements?

16 A Yes.

17 Q Who asked for this meeting, Mr. Corneal?

18 A Yes.

19 Q And what do you mean by review of proposed
20 subdivision requirements?

21 A As it's termed here, I met with him to see
22 what his requirements were as to lot layouts and that
23 sort of thing.

24 Q So is it your understanding looking at that
25 note and refreshing your recollection that you knew

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1 Q With respect to Jackson Township in
2 particular, after Mr. Corneal made the request, did you
3 do anything to ascertain what would be required in
4 terms of township and/or county approvals?

5 A Most times, when asked to do a subdivision
6 in any particular municipality, at some point during my
7 preparation, I would contact the Huntingdon County
8 Planning Commission to find out whether that township
9 has a subdivision ordinance and what the date of the
10 latest revision is.

11 Q And do you recall doing that in this
12 instance?

13 A Not specifically, but I'm sure I did.

14 Q And do you recall what you learned when you
15 contacted the Huntingdon County Planning Commission?

16 A It's my recollection that Jackson Township
17 at that time did not have a subdivision land
18 development ordinance.

19 Q Was there an indication from the county
20 planning commission when you contacted them, if you
21 recall, that they were working on an ordinance?

22 A Not at that time, I don't think.

23 Q Did there come a time where you found out
24 that they were working on a subdivision ordinance?

25 A Yes.

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1 prior to June 26 that Mr. Corneal desired to subdivide
2 his property?

3 A I have no note of his initial call to set up
4 that meeting.

5 Q And that's really not what I was looking
6 for, but was it your understanding that he was
7 contacting you to help him subdivide his property?

8 A Yes.

9 Q Was there any other purpose that you know of
10 as to why he was retaining your services?

11 A Not to my knowledge.

12 Q And do you recall what he wanted to do in
13 terms of subdivision, what he told you?

14 A I think at that time, as best I can recall,
15 that he wished to lay out approximately nine lots.

16 Q And did he give you an indication at that
17 time what he wanted to do with those lots, if you
18 recall?

19 A Not specifically that I recall.

20 Q Do you do most of your surveying work within
21 Huntingdon County?

22 A Yes, in the general area.

23 Q So you're familiar with subdivisions
24 generally within the county?

25 A Yes.

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1 Q Do you recall when that was?

2 A On January 25 in the calendar book dated
3 2000, I have a note that I had called Ann Wirth of
4 Jackson Township to -- the purpose of that call at that
5 time was to find out the date of their next monthly
6 township meeting.

7 And it's my recollection at that time that
8 she told me the date of the next regular meeting, and I
9 believe she asked me the purpose of my call, at which
10 time I would have informed her that it was regarding a
11 subdivision.

12 It was at that time that she informed me
13 that they were working on -- that Jackson Township was
14 working on adopting a township subdivision ordinance.

15 Q Did she also tell you that there was a
16 moratorium on new subdivisions within the township?

17 A Yes, she did.

18 Q And is that what you believe to be the first
19 time that you heard about that, on January 25?

20 A I believe so, yes.

21 Q Did you convey this information to
22 Mr. Corneal?

23 A Yes.

24 Q What did he say, if you recall?

25 A I really don't recall.

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1 Q Had you contacted the township at any time
2 prior to January 25, 2000, with respect to the work
3 that you were doing for Mr. Corneal and his
4 subdivision?

5 A Not to my knowledge.

6 Q As of January 25, 2000, had you completed
7 the plans for the proposed subdivision?

8 A I would say no, the earliest plan date that
9 I see here on my completed subdivision plans is
10 February 4 of 2000.

11 Q Why were you contacting the township to find
12 out when their next meeting was?

13 A So that I could finish the work that I was
14 progressing on prior to their township meeting.

15 Q Why did you want to finish the work prior to
16 the township meeting?

17 A I think Mr. Corneal expressed a desire to
18 have this information to the township for their very
19 next meeting.

20 Q Do you know why Mr. Corneal wanted that
21 information to go to the township?

22 A I'm sure that I had told Mr. Corneal that
23 it's been my understanding in any subdivision in any
24 municipality that because of sewage facilities
25 installation on a property anywhere that the proposal

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1 lots down to three, if you know?

2 A That, I really don't know. It was simply
3 reduced -- the number of lots was reduced at
4 Mr. Corneal's request.

5 Q Did the plan of the proposed subdivision
6 have to be submitted to the Huntingdon County Planning
7 Commission?

8 A As I understand it, that is at the township
9 officials discretion.

10 Q And did you ascertain whether or not in
11 Jackson Township their discretion is to have the plans
12 submitted to the planning commission?

13 A I don't specifically recall doing that.

14 Q Do you recall submitting the plans to the
15 Huntingdon County Planning Commission?

16 A Not personally, no.

17 Q Do you know whether they were?

18 A I think that they were. I think that one of
19 my survey files contains two separate review letters
20 issued from the planning commission.

21 Q Do you know what happened at the February
22 township meeting with respect to the subdivision plan?

23 A No.

24 Q Were you asked to revise the plans at any
25 time after the February meeting?

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18

1 would include something like that, that the township
2 supervisors must give their permission to subdivide.

3 Q And did this subdivision plan have
4 provisions for sewage facilities?

5 A Yes, it did.

6 Q Now, I may have already asked this, and I
7 apologize, do you recall the discussion you had with
8 Mr. Corneal when you informed him about the moratorium
9 that you were informed about by Ann Wirth?

10 A I really don't recall specifics of that
11 particular conversation.

12 Q Did you attend the township meeting in
13 February?

14 A No, I did not.

15 Q Have you ever attended a township meeting of
16 the Jackson Township board of supervisors?

17 A Not to my knowledge.

18 Q Now, the plan that was drawn up in February
19 -- well, with the date of February, February 4, 2000, I
20 think you said?

21 A Yes.

22 Q How many lots were proposed on that plan?

23 A At that time, there were three lots
24 proposed.

25 Q Why did it go from the original idea of nine

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20

1 A Yes, I was.

2 Q Who asked you to revise them?

3 A Mr. Corneal.

4 Q Do you know why he asked you to revise those
5 plans?

6 A Not specifically.

7 Q Do you know generally any reason why you
8 were asked to revise the plan?

9 A I think because in order to revise the
10 subdivision plan to create fewer lots, it would have
11 perhaps made things easier to get through the planning
12 commission's approval.

13 Q And did you, in fact, revise the plans?

14 A Yes, I did.

15 Q What's the date of your first revision?

16 A The next consecutive plan concerning the
17 Corneal property is dated April 7 of 2000.

18 Q And how many lots were on the April 7, 2000,
19 plan?

20 A Only two proposed lots at that time.

21 Q Did you have any discussion with Mr. Corneal
22 about why he went from three lots down to two lots?

23 A Not his specific reasoning, however, I did
24 convey to Mr. Corneal that in my experience, the
25 creation on the February 4 plan of such an extended

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21

1 right-of-way to serve Lot No. 3 generally raises
2 eyebrows at the planning commission.

3 Q Now, did you have anything to do with the
4 preparation of sewage modules?

5 A I prepared the Pennsylvania Department of
6 Environmental Protection sewage module, the component
7 one.

8 Q For which plan?

9 A For both the February 4 plan and also the
10 April 7 plan.

11 Q And the module that you prepared for the
12 February plan, was that different than the next module
13 that was prepared for the April plan?

14 A Yes, there would have been changes on it,
15 specifically the number of lots and other things that I
16 don't recall just at the moment.

17 Q Were there any other revisions that you made
18 to the plan and the proposed subdivision after April?
19 In other words, were there any other plans that you
20 made?

21 A Yes. Yes, I have a plan showing the
22 David B. and Sandra Y. Corneal property that is dated
23 December 27, 2000.

24 Q And how many lots are on that plan?

25 A It's just the one survey showing the entire

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23

1 Mr. Corneal?

2 A Not that I recall.

3 Q Did you have any discussions with
4 Mr. Corneal about the approval process or what went on
5 with his proposed plans?

6 A I'm sure I would have conveyed to
7 Mr. Corneal the general process of subdividing a piece
8 of property as best I understood it at the time.

9 Q Very briefly, what was your understanding at
10 the time that you probably explained to Mr. Corneal?

11 A That in any subdivision, the township
12 supervisors were required by the Pennsylvania DEP to
13 review and approve subdivision plans whether or not
14 they had an ordinance, this was strictly in compliance
15 with the Department of Environmental Protection
16 policies.

17 Q Other than the three plans that you prepared
18 that we've talked about and the two sewage modules, did
19 you prepare anything else for Mr. Corneal?

20 A There were — the documents we looked at
21 earlier with the information concerning the boundary
22 discrepancy and I think there were additional drawings
23 concerning the neighboring property.

24 It's my recollection that Mr. Corneal wanted
25 those because he was contemplating purchasing at least

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22

1 boundary of the Corneal property with no attempted
2 divisions of the property.

3 Q Do you know why you were asked to prepare
4 the plan with the December date on it?

5 A Only at Mr. Corneal's request.

6 Q You don't know why he requested that?

7 A Not specifically, no.

8 Q Did you have any discussions with him about
9 the preparation of the December plan?

10 A I'm sure I did.

11 Q That you recall, obviously.

12 A Nothing stands out in my memory.

13 Q And what is that December plan? What did he
14 ask you to do?

15 A He asked that I prepare a drawing showing
16 the entire property that he and his wife owned with the
17 positioning of the soil probes and percolation tests
18 that were done by the township's sewage enforcement
19 officer and the soil types as they are discernable from
20 the Huntingdon County soil survey, which is put out by
21 the United States Department of Agriculture.

22 Q Did you, other than the two sewage modules
23 that we talked about, one in conjunction with the
24 February plan and one in conjunction with the April
25 plan, did you prepare any other sewage modules for

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24

1 a portion of the neighboring property.

2 Q Did you have anything to do with the design
3 of any structures on the properties?

4 A No.

5 Q The location of any structures?

6 A No, I would have simply shown the proposed
7 location of a structure in the position that
8 Mr. Corneal would indicate so that it could be shown on
9 the subdivision plan.

10 Q Do you recall meeting with the SEO, the
11 sewage enforcement officer, Mr. Parks, sometime in the
12 fall of 1999 concerning Mr. Corneal's property?

13 A I met with Barry Parks at the Huntingdon
14 County Courthouse one morning to get some insight as to
15 the positions for several of the soil probes, some of
16 the soil testing that he had done that I had not been
17 able to find on the property.

18 Q So you couldn't find the test sites on the
19 property?

20 A That's correct.

21 Q And you met with Barry Parks in order to get
22 information which would enable you to find those test
23 sites?

24 A That's my recollection, yes.

25 Q Do you recall meeting with Barry Parks at

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25

1 any other time concerning the Corneal property?
 2 A No, I don't.
 3 Q Other than a discussion concerning the test
 4 pit sites on the property, did you have any other
 5 discussion with Mr. Parks about the Corneal property?
 6 A I don't think so.
 7 Q Do you know a person by the name of George
 8 Simpson?
 9 A Yes.
 10 Q Who is George Simpson?
 11 A Somebody I knew many years ago. I don't
 12 know who he is in any other capacity. I would
 13 recognize him.
 14 Q Did you have anything to do with his
 15 subdivision or proposed subdivision in Jackson
 16 Township?
 17 A I don't think so.
 18 MR. SHERR: I don't have any other
 19 questions. Thank you.
 20 MS. MONTGOMERY: One moment, please.
 21 (Discussion held off the record.)

EXAMINATION

25 BY MS. MONTGOMERY:

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1 Facilities Act requires the municipal officers in any
 2 municipality to review subdivision proposals to make
 3 certain that the sewage facilities proposed for the
 4 development are adequate.
 5 Q And does the township sometimes pass that
 6 task on to the county planning commission?
 7 A Yes, my understanding is that the county
 8 planning commission will review and make
 9 recommendations to any municipal officers as to their
 10 findings in reviewing subdivision plans.
 11 Q Did Mr. Corneal, in the course of you
 12 preparing the successive subdivision plans for him, did
 13 he ever tell you why he kept cutting down the number of
 14 proposed lots?
 15 A Not that I specifically recall.
 16 Q Did he ever tell you that his plans were
 17 being -- his ability to subdivide was being challenged
 18 by the township at all?
 19 A I think he may have mentioned something
 20 along those lines, but again, I don't specifically
 21 recall the wording or the exact occasion.
 22 Q Did you have any understanding of why you
 23 were preparing, you know, successive subdivision plans
 24 with fewer and fewer lots?
 25 A Only based on my presumption that he felt

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26

1 Q Mr. Simpson, I'm Bridget Montgomery, and I
 2 represent the Corneals in this action, and we just met
 3 a moment ago. I just have a couple of questions for
 4 you.
 5 I think you testified a few moments ago that
 6 you contacted Ann Wirth on January 25, 2000, to inquire
 7 into when the next township meeting would be, correct?
 8 A That's correct.
 9 Q When you called her, did you tell her who
 10 you were calling on behalf of or whose subdivision plan
 11 you were looking to present?
 12 A I may have at some time during the
 13 conversation. It wasn't a long conversation, but I
 14 don't specifically recall mentioning an individual.
 15 Q Okay. You testified, also, about some DEP
 16 requiring township supervisors to review and approve
 17 certain subdivision plans?
 18 A Yes, particularly where there would be, as I
 19 mentioned before, proposed sewage facilities
 20 installation.
 21 Q So exactly what were they reviewing them
 22 for? Let me ask that question a little better.
 23 Exactly what were the township supervisors required to
 24 review such plans for?
 25 A It's my understanding the State Sewage

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28

1 the need to do so.
 2 Q Now, you testified, I think, that you had
 3 some involvement with the sewage modules on
 4 Mr. Corneal's property?
 5 A Yes, I would have prepared the sewage module
 6 forms with all of the information that I could provide
 7 on them.
 8 Q Oh, the forms?
 9 A Yes.
 10 Q I see. For submission to whom?
 11 A They would initially go to the township and
 12 the planning commission if the planning commission were
 13 being asked to review this, but they would also then
 14 have to be submitted to the Department of Environmental
 15 Protection for their review and their approval, also.
 16 Q Did you prepare successive versions of the
 17 sewage modules, as well?
 18 A Two, to my recollection.
 19 Q Okay. Do you recall why you had to prepare
 20 a second version?
 21 A Information pertinent to the second
 22 subdivision proposal that is required within the form
 23 would have been different than the first.
 24 Q I see. Did anybody else work on the sewage
 25 modules with you?

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29

1 A No.
 2 MS. MONTGOMERY: I don't have any other
 3 questions.
 4 MR. SHERR: I don't have anything further.
 5 Thank you very much for your time, Mr. Simpson.
 6 (The deposition concluded at 1:52 p.m.)
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30

1 COUNTY OF UNION :
 2 COMMONWEALTH OF PENNSYLVANIA: ss
 3

4 I, NICOLE L. ZIMMERMAN, Reporter-Notary
 5 Public, authorized to administer oaths within and for
 6 the Commonwealth of Pennsylvania and take depositions
 7 in the trial of causes, do hereby certify that the
 8 foregoing is the testimony of DAVID SIMPSON.

9 I further certify that before the taking of
 10 said deposition, the witness was duly sworn; that the
 11 questions and answers were taken down stenographically
 12 by the said NICOLE L. ZIMMERMAN a Reporter-Notary
 13 Public, approved and agreed to, and afterwards reduced
 14 to typewriting under the direction of the said
 15 Reporter.

16 I further certify that the proceedings and
 17 evidence are contained fully and accurately in the
 18 notes taken by me on the within deposition, and that
 19 this copy is a correct transcript of the same.

20 In testimony whereof, I have hereunto
 21 subscribed my hand this 12th day of July, 2001.
 22

23
 24 NICOLE L. ZIMMERMAN
 Notary Public

25 My commission expires
 on May 24, 2003

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Article of Agreement, ^{Exhibit 9}

Made the 7th day of October in the year
one thousand nine hundred ninty nine (1999).

Between DAVID B. CORNEAL and SANDRA Y. CORNEAL , parties

and JOHN B. HEWETT, JR. and JoANN F. SMITH, parties

Witnesseth, that the said part ies of the first part, for the consideration hereinafter mentioned
and contained, agree to sell and convey unto the said part ies of the second part, their

heirs or assigns, all Farm House, Barn and 25.8 acres, more or less,
located in Jackson Township, Huntingdon County, more fully
described in a proposed subdivision survey prepared by David A.
Simpson for David B. and Sandra Y. Corneal. Being a portion of a
larger fram tract owned by the parties of the first part.
Said subdivision to be finalized and recorded prior to settle-
ment by the parties herein.

THIS CONTRACT IS SUBJECT TO THE ADDITIONAL TERMS SETFORTH
IN AN ADDENDUM ATTACHED HERETO.

In Consideration Whereof, the said parties of the second part agree to purchase
said premises and to pay said part of the first part therefor, the sum of one hundred and
fifty thousand (\$150,000.00) and xx/00 ----- Dollars,
in the manner following, to-wit

1. Four thousand and xx/00 (\$4,000.00) dollars downpayment.
2. Monthly payments of five hundred and xx/00(\$500.00) dollars
beginning on November 7, 1999 and continuing each month
thereafter until final settlement on or about JUNE 30th, 2000.
Said monthly payments to be applied to principle against the
purchase price.
3. The balance in full at the time of settlement.
4. Buyers to pay 1% transfer tax and a proration of the real estate
taxes.
5. No personal property is included in this sale.

and upon the payment of the said sum, the said part es of the first part will, at their
own proper cost and charge, make, execute and deliver to the said part ies of the second
part a good and sufficient Deed for the proper conveying and assuring of the said premises in fee
simple, free from all incumbrance, and dower and right of dower, such conveyance to contain the
usual covenants of Special

warranty

06-29-2000 05:58AM FROM FMS

TO

17172376019 P.03

ADDENDUM/ENDORSEMENT

AGREEMENT OF SALE

Form 102-6L

RE: PROPERTY 25.8 acres with house and barn
 SELLERS DAVID B. CORNEAL and SANDRA Y. CORNEAL
 BUYERS JOHN B. HEWETT, JR. and JOANN F. SMITH
 DATE OF AGREEMENT 10-7-1999 SETTLEMENT DATE 6-30-2000 SALE PRICE \$50,000

1. Buyers acknowledge that a present tenant, Scott Page, needs to be relocated by Sellers to a property they are constructing on another portion of the farm and that they will be flexible in the settlement date to accommodate this transition.
2. Sellers grant to the Buyers, upon the signing of this agreement the right to begin preparation of flower beds for Spring planting. Sellers have the right to approve or disapprove the numbers and locations of the flower beds.
3. Sellers shall retain the right to occupy the upper level of the barn for a period of two years or until their home is finished on the remainder of the farm, which ever comes first.
4. The deed will contain restrictive covenants that the land may not be further subdivided, that there may not be mobile homes of any nature put on the property permanently or temporarily. That any home constructed on the property shall contain a minimum of 2,000 sq. feet of living space.

OK 1300+on-

All other terms and conditions of the said agreement shall remain unchanged and in full force and effect.

| | | | |
|---------|-------|--------|-------------------------------|
| WITNESS | _____ | BUYER | <u>John B. Hewett Jr.</u> (S) |
| WITNESS | _____ | BUYER | <u>Joann F. Smith</u> (S) |
| WITNESS | _____ | DATE | <u>10-7-99</u> (S) |
| WITNESS | _____ | SELLER | <u>David B. Corneal</u> (S) |
| AGENT | _____ | SELLER | <u>Sandra Y. Corneal</u> (S) |
| | | DATE | <u>10-7-99</u> (S) |

COPIES: WHITE: SELLER, YELLOW: AGENT, PINK: BUYER, BLUE: MORTGAGEE, GOLD: _____, GREEN: BUYER'S AT TIME OF SIGNING

4/89

PENNSYLVANIA ASSOCIATION OF REALTORS®

S2200 10/1/99

66-29-2000 05:55 PM FROM FTS

TO

17172376019 P.04

And it is further agreed by and between the said parties that possession of said premises shall be delivered to the parties of the second part, their heirs or assigns, on the 30th day of June 192000, until which time the parties of the first part shall be entitled to receive the rents, issues and profits thereof.

And it is further understood and agreed, that in case default shall be made in the payment of any installment of principal or interest hereby agreed to be paid, for a period of ten (10) days after the same shall have become due and payable by the terms hereof, then and in that case the whole of the principal sum and interest shall, at the option of the said parties of the first part, become forthwith due and payable, without defalcation or stay of execution; said parties of the second part do hereby empower any attorney of any Court of Record of Pennsylvania or elsewhere, to appear and confess judgment against them for the above sum, or so much thereof as remains unpaid, together with the interest, with costs of suit, release of errors, attorney's commission of 10% per cent., waiving inquisition and exemption.

In Witness Whereof, the parties to this agreement have hereunto set their hands and seals, the day and year first above written.

SEALED AND DELIVERED
IN THE PRESENCE OF

DAVID B. CORNEAL

SANIRA A. CORNEAL

JOHN E. HEWITT, JR.

JOANN F. SMITH

SEAL

SEAL

SEAL

State of

On this

7th

day of

July

19

, before me, the subscriber.

personally came the above named

foregoing Indenture to be
such.

who in due form of law acknowledged the
act and deed, and desired that the same might be recorded as

Witness my hand and

seal the day and year aforesaid.

My Commission Expires

SEAL

Agreement.

FORM 9-1

WITH

Dated

For

Entered for record in the Recorder's

Office of

County, the

day of

19

Recorder.

NOT RECORDED IN THE RECORDER'S OFFICE

Tax \$

Fees \$

WILLIAM H. SIMMET

To Recorder of Deeds:

Certificate of Residence

I, hereby certify that the correct address and place of residence of the grantee
as follows:

herein

Attorney or Agent for Grantee

Recorded in the Office for Recording of Deeds, &c., in and for said County,
in Deed Book No. Vol. , Page

Witness my Hand and Official Seal this day of , 19

Recorder of Deeds

TOTAL P.04

Exhibit 10

February 7, 2000
Meeting called to order by Chairman Weiler
Minutes approved as read

~~Treasurer's report approved as read~~

The Board appointed two new auditors - Lucille Yutzy and Sondra Amrstrong

The Fireman presented a list - Fireman trained in Hazardous Materials Operations
and Incident Commanders - Fireman driving under Red Lights and Sirens and Blue Lights.
And a List of Fireman and their Drivers License's.

Denny Grandthal presented a copy of the concerns and opinions of the Taxpayers Associations
On the proposed Subdivision Ordinances.

Fire Chief Chris Wilson ask if the proposed sub-division ordinance had addressed the width of the
roads with the Fireman trucks in mind and he was assured that all the proposed streets will
be wide enough to get the fire trucks in and out and turn them around.

Roadmaster had a few complaints about snow removal but he felt that we have worked out the problems
and things are going well.

David Corneal ask if the Supervisors would approve a sub-division on Sawmill road, all three supervisors
told him that we are not approving any sub-division at this time and that it had been announced at the
January meeting. He ask if he could submit his sub-division to the County and when we are ready would
be a head of the game and he was told that he could do so but that the Township had the final approval of
all sub-divisions.

Meeting adj 7:50PM

Ann Lurth

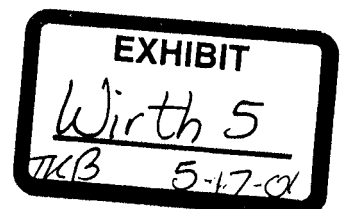


Exhibit 11

January 4, 2000

Regular Meeting Opened at 7:10PM

Meeting called to order by Chairman Weiler at 7:00 PM

Minutes approved

Treasurer report approved as read

The Supervisor's stated that no more sub-divisions will be approved until after the proposed Sub-Division ordinance for the Township has been approved. As soon as we get the review from the Planning commission and any changes that the Supervisors feel need to be made copies will be made available to the Public and a Public meeting will be held. It was stated that the County is now doing a "boiler plate" sub-division ordinance for those Township's who want it, but Jackson Township has already put a lot of time into the purpose ordinance and it was felt it was in the best interest of the Township to proceed with the ordinance that the Supervisor's have decided on.

Tom Wilson the Roadmaster stated that New Enterprise would fix Miller road to our satisfaction in the spring. He hopes to get bids on Sawmill & Yoder for sealing this summer depending on the price and how much money we have at the time.

Meeting was adj. at 7:35PM

(June 26th - Will public meeting re: sub-division and adoption
Time?

EXHIBIT

Wirth 6

TKB 5-17-01

Exhibit 12

NEWTON, LAWRENCE
06/12/01

CORNEAL VS
JACKSON TOWNSHIP

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF PENNSYLVANIA
3 DAVID B. CORNEAL and SANDRA :
4 Y. CORNEAL, :
5 PLAINTIFFS :
6 VS : NO. 1:CV-00-1192
7 JACKSON TOWNSHIP, HUNTINGDON :
8 COUNTY, PENNSYLVANIA; W. :
9 THOMAS WILSON, individually :
10 and in his official capacity :
11 as Supervisor of Jackson :
12 Township; MICHAEL YODER, :
13 individually and in his :
14 official capacity as :
15 Supervisor of Jackson :
16 Township; RALPH WEILER, :
17 individually and in his :
18 official capacity as :
19 Supervisor of Jackson :
20 Township; BARRY PARKS, :
21 individually and in his :
22 official capacity as Sewage :
23 Enforcement Officer of :
24 Jackson Township; DAVID :
25 VAN DOMMELEN, individually :
26 and in his official capacity :
27 as Building Permit Officer; :
28 ANN L. WIRTH, individually :
29 and in her official capacity :
30 as Secretary of Jackson :
31 Township; and LARRY NEWTON, :
32 individually and in his :
33 official capacity as :
34 Solicitor to Jackson :
35 Township, :
36 DEFENDANTS :
37 DEPOSITION OF: LAWRENCE L. NEWTON
38 TAKEN BY: PLAINTIFFS
39 BEFORE: TERESA K. BEAR, REPORTER
40 NOTARY PUBLIC
41 DATE: JUNE 12, 2001, 9:42 A.M.
42 PLACE: ECKERT SEAMANS
43 213 MARKET STREET
44 HARRISBURG, PENNSYLVANIA

NEWTON, LAWRENCE
06/12/01

CORNEAL VS
JACKSON TOWNSHIP

| | |
|---|---|
| <p style="text-align: right;">2</p> <p>1 APPEARANCES:</p> <p>2 ECKERT SEAMANS</p> <p>3 BY: BRIDGET E. MONTGOMERY, ESQUIRE</p> <p>4 LESLIE A. MALADY, ESQUIRE</p> <p>5 FOR - PLAINTIFFS</p> <p>6 MAYERS, MENNIES & SHERR, LLP</p> <p>7 BY: ANTHONY R. SHERR, ESQUIRE</p> <p>8</p> <p>9 FOR - ALL DEFENDANTS EXCEPT NEWTON</p> <p>10</p> <p>11 THOMAS, THOMAS & HAER</p> <p>12 BY: MICHELE J. THORP, ESQUIRE</p> <p>13 FOR - DEFENDANT - RALPH WEILER</p> <p>14 METTE, EVANS & WOODSIDE</p> <p>15 BY: KATHRYN LEASE SIMPSON, ESQUIRE</p> <p>16</p> <p>17 FOR - DEFENDANT - LARRY NEWTON</p> <p>18</p> <p>19 ALSO PRESENT:</p> <p>20</p> <p>21 DAVID B. CORNEAL</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">4</p> <p>1 LAWRENCE L. NEWTON, called as a witness, being</p> <p>2 sworn, testified as follows:</p> <p>3</p> <p>4 DIRECT EXAMINATION</p> <p>5</p> <p>6 BY MS. MONTGOMERY:</p> <p>7 Q Mr. Newton, we've just met, but for the record</p> <p>8 I'll identify myself. My name is Bridget Montgomery and I</p> <p>9 represent the Corneals in this litigation. Would you just</p> <p>10 state your name for the record.</p> <p>11 A Lawrence, L-a-w-r-e-n-c-e, middle initial L.,</p> <p>12 Newton, N-e-w-t-o-n.</p> <p>13 Q Where do you live, Mr. Newton?</p> <p>14 A I live at 2111 Moore Street, Huntingdon,</p> <p>15 Pennsylvania.</p> <p>16 Q How long have you lived there?</p> <p>17 A Since July of 1981.</p> <p>18 Q Are you a native of Huntingdon?</p> <p>19 A No, I'm not.</p> <p>20 Q Where are you a native of?</p> <p>21 A I grew up in Latrobe, Pennsylvania.</p> <p>22 Q What county is that?</p> <p>23 A Westmoreland.</p> <p>24 Q Out in the western part of the state?</p> <p>25 A Yes.</p> |
| <p style="text-align: right;">3</p> <p>1 TABLE OF CONTENTS</p> <p>2 WITNESS</p> <p>3 FOR PLAINTIFFS DIRECT</p> <p>4 Lawrence L. Newton</p> <p>5 By Ms. Montgomery 4</p> <p>6</p> <p>7 EXHIBITS</p> <p>8 NEWTON EXHIBIT NO. PRODUCED AND MARKED</p> <p>9 1 - Notice 33</p> <p>10 2 - Minutes dated 1/4/00 48</p> <p>11 3 - Letter dated 1/31/00 68</p> <p>12 4 - Letter dated 8/18/00 77</p> <p>13 5 - Letter dated 7/28/00 80</p> <p>14 6 - Letter dated 5/5/00 81</p> <p>15 7 - Letter dated 5/5/00 84</p> <p>16 8 - Notice 99</p> <p>17 9 - Bill dated 12/28/99 103</p> <p>18 10 - Letter dated 8/3/00 106</p> <p>19 11 - Letter dated 8/31/00 with enclosures 109</p> <p>20 12 - Letter dated 9/1/00 with enclosures 112</p> <p>21 13 - Letter dated 10/10/00 113</p> <p>22 14 - Letter dated 11/10/00 121</p> <p>23 15 - Invoice dated 8/4/00 126</p> <p>24 16 - Letter dated 8/29/00 147</p> <p>25</p> | <p style="text-align: right;">5</p> <p>1 Q And what is your current occupation?</p> <p>2 A I'm an attorney.</p> <p>3 Q Are you in private practice?</p> <p>4 A Yes, I am.</p> <p>5 Q And what is the business address of your law</p> <p>6 practice?</p> <p>7 A 504 Penn Street, Huntingdon, Pennsylvania.</p> <p>8 Q Even though you are an attorney, I was going</p> <p>9 to dispense with all of these instructions, but I think</p> <p>10 we're going to need to go through them. Have you ever been</p> <p>11 deposed before?</p> <p>12 A No, I haven't.</p> <p>13 Q Okay. You know the general instructions?</p> <p>14 A Yes.</p> <p>15 Q First of all, that you really need to let me</p> <p>16 finish my question and I'll try to let you finish your</p> <p>17 answer so that we're not talking over each other, just for</p> <p>18 the benefit of the court reporter.</p> <p>19 I'll give you an instruction that I need to</p> <p>20 mind myself. We need to talk slow enough for the court</p> <p>21 reporter to take us down. I tend to go too fast and Michele</p> <p>22 was good about reminding me that I'm going too fast. So is</p> <p>23 there any reason why you can't give your deposition today?</p> <p>24 A None whatsoever.</p> <p>25 Q You're not on any sort of medication or</p> |

NEWTON, LAWRENCE
06/12/01

CORNEAL VS
JACKSON TOWNSHIP

6

1 anything that would prevent you from understanding my
 2 questions and giving answers?
 3 A No.
 4 Q Obviously if you need to take a break for your
 5 own comfort or convenience, you can do that. There's water
 6 here if you need it, coffee, whatever you'd like.
 7 Now, we'll go back to your employment. I
 8 think you just gave us your business address, correct?
 9 A That's correct.
 10 Q Are you in practice alone?
 11 A Yes.
 12 Q Do you occupy that space alone?
 13 A No.
 14 Q Who occupies the space with you?
 15 A There's another attorney, Harvey B. Reeder,
 16 and a psychologist, Lynn E. Kagarise.
 17 Q Do you have -- what is it, a three office
 18 space or more?
 19 A Well, we have -- we have more space. We have
 20 a conference room downstairs. Mr. Reeder and I share part
 21 of the second floor. We each have an office. There is a
 22 library and another conference room. Mr. Kagarise is in the
 23 second floor rear. There is an office that he has and
 24 secretarial staff.
 25 Q So you have your actual office space on the

8

1 Q Any other shared space?
 2 A No.
 3 Q You both are able to use the conference room
 4 or was it rooms -- room or rooms on the first floor?
 5 A Room. There's a kitchen area in the back of
 6 the first floor.
 7 Q How long has Mr. Reeder shared this space with
 8 you?
 9 A We purchased the building approximately five
 10 years ago. So at that location approximately five years.
 11 Q Did you previously share office space with
 12 him?
 13 A Yes.
 14 Q In another location?
 15 A Yes.
 16 Q Where was that?
 17 A 331 Penn Street, Huntingdon.
 18 Q Also in Huntingdon?
 19 A Yes.
 20 Q And how long did you share office space with
 21 him there?
 22 A Well, there was another -- at that time there
 23 was another attorney that we practiced -- that I practiced
 24 with by the name of Marshal B. DeForrest.
 25 Q I'm sorry, I didn't hear that.

7

1 second floor --
 2 A Yes.
 3 Q -- and your conference room is on the first
 4 floor?
 5 A Yes.
 6 Q You said that Mr. Reeder and you share part of
 7 the second floor?
 8 A Yes.
 9 Q You have separate offices but one secretary?
 10 A No, we each have our own secretary and we
 11 share a secretary.
 12 Q I see. So you have three secretaries
 13 altogether?
 14 A Yes, one of whom I employ and one of whom we
 15 share the cost of.
 16 Q I see. And the other whom he employs himself?
 17 A Yes.
 18 Q Do you have any other office staff?
 19 A No.
 20 Q And you have a library?
 21 A Yes.
 22 Q A law library?
 23 A (Witness nods head affirmatively.)
 24 Q Do you share that with Mr. Reeder?
 25 A Yes.

9

1 A Marshal B. DeForrest.
 2 Q DeForrest?
 3 A Yes. Mr. Reeder was sharing space at that
 4 time as well.
 5 Q I take it you're each sole practitioners?
 6 A That's correct.
 7 Q And Mr. DeForrest was a sole practitioner as
 8 well?
 9 A Yes, he was. Now, I helped him out. We were
 10 sole practitioners, but he was -- he needed some help. He
 11 was kind of phasing out of his practice and so I did various
 12 tasks for him but we were never partners.
 13 Q Do you have any sort of partnership or
 14 corporate arrangement or anything like that with Mr. Reeder
 15 at this time?
 16 A I do not. I should say that we had a -- we
 17 have a settlement company called Standing Stone Settlement
 18 Company. We each are title agents for Old Republic. We do
 19 not have a partnership regarding the settlement company. We
 20 actually formed the settlement company because most title
 21 carriers expected some minimum volume per year so we thought
 22 if we combined and had a settlement company we could do this
 23 together, but any settlement that I have through Standing
 24 Stone is mine and any settlement he has is his.
 25 Q Standing Stone is what?

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| <p style="text-align: right;">10</p> <p>1 A It's a fictitious name.</p> <p>2 Q Oh, Standing Stone is the name of your</p> <p>3 title --</p> <p>4 A Standing Stone Settlement Company is a</p> <p>5 fictitious name, yes.</p> <p>6 Q And you said your title agent's through what?</p> <p>7 A Old Republic Title Company.</p> <p>8 Q Through Old Republic Title Company?</p> <p>9 A (Witness nods head affirmatively.)</p> <p>10 Q What about the real estate itself, do you own</p> <p>11 it or rent it?</p> <p>12 A We own it. We have a real estate partnership,</p> <p>13 Mr. Reeder and I and Mr. Kagarise, and then we each</p> <p>14 individually pay rent to the partnership.</p> <p>15 Q Understood. How long have you owned that</p> <p>16 building with Mr. Reeder?</p> <p>17 A Since approximately five years ago.</p> <p>18 Q Did you own the prior office?</p> <p>19 A I did not. I believe Mr. DeForrest owned the</p> <p>20 building and then for a period of time I think Mr. Reeder</p> <p>21 did, but I never had an ownership interest in 331 Penn</p> <p>22 Street.</p> <p>23 Q Do you have one telephone number or two</p> <p>24 telephone numbers or what at this office?</p> <p>25 A Actually we have three lines. Technically my</p> | <p style="text-align: right;">12</p> <p>1 Q Do you share clients at all? I mean, do you</p> <p>2 work on cases together or --</p> <p>3 A We've done that occasionally. Generally not.</p> <p>4 Q In terms of proximity, how close are your</p> <p>5 offices, yours and Mr. Reeder's?</p> <p>6 A Right across the hall.</p> <p>7 Q And your secretaries each sit outside your</p> <p>8 desks, your individual offices?</p> <p>9 A No, the secretaries are all downstairs.</p> <p>10 Q The secretaries are on a separate floor?</p> <p>11 A If you go in the front door, our secretaries</p> <p>12 are to the left and our receptionist is to the right.</p> <p>13 Q Tell me a little bit about your education,</p> <p>14 where did you do your undergraduate work?</p> <p>15 A Wittenberg University in Springfield, Ohio.</p> <p>16 Q And what about your law degree?</p> <p>17 A Case Western Reserve University in Cleveland,</p> <p>18 Ohio.</p> <p>19 Q Do you have any other degrees?</p> <p>20 A I do not.</p> <p>21 Q A JD is enough.</p> <p>22 A That's enough.</p> <p>23 Q Causes you enough problems in your life,</p> <p>24 right. Let's see, what about other types of certificates or</p> <p>25 anything like that? Do you have anything?</p> |
| <p style="text-align: right;">11</p> <p>1 number is 643-3820 and Mr. Reeder's number is 643-3821. You</p> <p>2 know, they both ring and our receptionist would answer</p> <p>3 either line.</p> <p>4 Q Is your receptionist your third shared</p> <p>5 secretary?</p> <p>6 A Yes.</p> <p>7 Q Is there a third number as well?</p> <p>8 A I don't believe so, no. There's just an extra</p> <p>9 line.</p> <p>10 Q There's just an extra line?</p> <p>11 A (Witness nods head affirmatively.)</p> <p>12 Q Is there one general number for the office or</p> <p>13 just those two numbers?</p> <p>14 A Those two numbers.</p> <p>15 Q What about your fax, do you share a fax?</p> <p>16 A We share a fax along with Mr. Kagarise. That</p> <p>17 number is 643-5670.</p> <p>18 Q I'm assuming you maintain malpractice</p> <p>19 insurance?</p> <p>20 A Yes.</p> <p>21 Q Do you maintain separate malpractice</p> <p>22 insurance?</p> <p>23 A Separate, yes.</p> <p>24 Q You each are under your own?</p> <p>25 A Um-hum.</p> | <p style="text-align: right;">13</p> <p>1 A I'm a title agent and that's all.</p> <p>2 Q You said that. How does one become a title</p> <p>3 agent, what do you do?</p> <p>4 A Apply through the title company.</p> <p>5 Q You apply directly to --</p> <p>6 A You're approved through your title company.</p> <p>7 Q There's no state requirement or anything like</p> <p>8 that?</p> <p>9 A There might be now. Not when I did it. When</p> <p>10 you are an attorney, you didn't have to take an exam and</p> <p>11 that type of thing and I'm not sure that's the case now.</p> <p>12 Q So you have a fictitious name for your</p> <p>13 settlement company?</p> <p>14 A Correct.</p> <p>15 Q Is it a corporation?</p> <p>16 A No.</p> <p>17 Q It's a partnership?</p> <p>18 A Technically, no, it's not.</p> <p>19 Q It's not registered in any way --</p> <p>20 A It's registered as a fictitious name.</p> <p>21 Q It's not registered as a partnership or</p> <p>22 corporate entity in any way?</p> <p>23 A It's not, no.</p> <p>24 Q Do you have some sort of insurance for that</p> <p>25 settlement company?</p> |

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1 A We have to purchase through our professional
 2 liability carrier additional coverage for that.
 3 Q Do you each purchase that separately or do you
 4 purchase it together or what?
 5 A We purchase it separately through our own
 6 policies. Now, the -- we have to have a fidelity bond
 7 through Standing Stone as a requirement of -- I think
 8 Pennsylvania licensing requirements.
 9 Q So you have a fidelity bond in the name of
 10 Standing Stone --
 11 A Right.
 12 Q -- which you two are the principals under
 13 Standing Stone?
 14 A Right.
 15 Q But each of you through your own malpractice
 16 insurance have additional insurance --
 17 A Yes.
 18 Q -- for your title agent work?
 19 A For our title agent, right.
 20 Q Is a settlement company the same as a title
 21 agency?
 22 A Similar, yes.
 23 Q I don't know if I asked you this, and I
 24 apologize if I did, when did you set up the title company,
 25 the settlement company?

15

1 A Approximately three years ago.
 2 Q So is it fair to say that a significant amount
 3 of your practice involves real estate?
 4 A I would say a fair portion of my practice
 5 involves real estate, but much of that is not the title
 6 agency.
 7 Q What about Mr. Reeder's, do you know?
 8 A I wouldn't know. He does -- I would say he
 9 does a fair amount of title work and real estate work.
 10 Q So you do some real estate settlement work and
 11 title work, right?
 12 A Yes.
 13 Q And aside from that, what else, what other
 14 kind of work do you do?
 15 A Civil and criminal litigation, municipal work,
 16 estates, that's about it.
 17 Q Your municipal work, can you describe that for
 18 me?
 19 A I'm solicitor for several townships and
 20 several boroughs.
 21 Q And we all know that you are solicitor for
 22 Jackson Township, correct?
 23 A Correct.
 24 Q In Huntingdon County. What other townships
 25 and boroughs are you solicitor to?

16

1 A Let's see, townships, Dublin, Carbon.
 2 Q Is Carbon in Centre County?
 3 A No, it's in Huntingdon County. These would
 4 all be in Huntingdon County. Hopewell, Todd, Porter, West.
 5 I think that's it.
 6 Q Thanks.
 7 A For boroughs, Huntingdon, Coalmont and
 8 Shirleysburg.
 9 Q And those are all in Huntingdon as well?
 10 A Yes.
 11 Q So when did you become the solicitor for
 12 Jackson Township?
 13 A I don't know. I would say approximately 15
 14 years ago.
 15 Q A long time, okay. How did that come about?
 16 A I received a telephone call from the then
 17 township secretary whose name was Leroy Koch. He asked me
 18 if I would be interested and I said yes.
 19 Q And you serve at the pleasure of the township
 20 supervisors, correct?
 21 A I do.
 22 Q Is it an annual contract or an annual
 23 appointment or what?
 24 A I think it's an annual appointment. We never
 25 have a contract.

17

1 Q Is there a list of duties or anything that
 2 came to you at any time in connection with your work for
 3 Jackson Township?
 4 A No.
 5 Q Well, how did you come about to have an
 6 understanding of what it is you're expected to do for them?
 7 A Township code.
 8 Q The township --
 9 A Basically in Jackson Township, and as well as
 10 in the other townships, I rarely attend meetings. I only
 11 attend unless I'm requested -- if I'm requested to attend.
 12 And there will be periods of time when really not too much
 13 happens at all during the year and it's -- these are -- keep
 14 in mind these are very rural townships and they basically
 15 call as needed.
 16 Q Understood. Are you on an hourly or on a
 17 retainer or what --
 18 A I --
 19 Q -- with Jackson Township?
 20 A I generally bill -- I generally bill these
 21 townships at a discounted rate of \$60 an hour.
 22 Q So you don't have some sort of retainer or a
 23 minimum number of hours a year or something like that?
 24 A No, there's no -- sometimes -- I don't know if
 25 I've done this the last couple years with Jackson Township,

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| <p style="text-align: right;">18</p> <p>1 but sometimes the retainer has been \$150 a year. You're 2 smiling at me. 3 Q With Jackson Township, typically how much work 4 do you do for them a year? 5 A You know, it varies. I think last year I 6 probably billed them approximately a thousand dollars. 7 There was more activity last year than in most years. 8 Q Do you send them an invoice every month? 9 A No. 10 Q Just in months that you perform work? 11 A Or I will not send an invoice until the job is 12 done. 13 Q I see. Do you send them any sort of periodic 14 statement of account or anything like that? 15 A No. 16 Q So you say that last year there was more 17 activity than usual? 18 A Yes. 19 Q Without going into anything that doesn't have 20 to do with this lawsuit obviously, can you describe for me 21 -- I should say can you tell me whether the additional 22 activity is attributable to Mr. Corneal and his issues? 23 A No, I would say not. 24 Q No, okay. 25 A Well, after the lawsuit, yes.</p> | <p style="text-align: right;">20</p> <p>1 Q I see. 2 A But I certainly didn't have any real 3 draftsmanship with respect to the ordinance. 4 Q You said it was under consideration you think 5 for at least a year? 6 A Yes. 7 Q How do you know that? I mean, what is it that 8 occurred that -- 9 A Well, I can -- you know, from the time that 10 the supervisors got the Cambria County -- whatever township 11 in Cambria County adopted the ordinance. I would say at 12 least a year, maybe more. 13 Q Do you know who brought the idea of a 14 subdivision ordinance to the township officials? 15 A I do not. 16 Q Did they ever discuss with you why they 17 thought they needed to do a subdivision ordinance? 18 A Generally because Jackson borders Centre 19 County and they wanted to be ready -- if there was going to 20 be development in Jackson Township to be prepared for that 21 development. 22 Q Did they ask you for advice regarding whether 23 or not it was appropriate for them to enact a subdivision 24 ordinance or how to do it or anything like that? 25 A Not directly. You know, subdivision</p> |
| <p style="text-align: right;">19</p> <p>1 Q Right. 2 A You know, we had -- you know, we had the 3 subdivision ordinance that we were working on and that 4 generates some additional time. 5 Q You just spoke a moment ago about the 6 subdivision ordinance. Do you recall the first time that 7 the subdivision ordinance was presented or the idea of a 8 subdivision ordinance in Jackson Township was presented to 9 you? 10 A I do not recall a specific date. It was -- it 11 was under consideration for a long period of time, at least 12 a year, probably more than a year. 13 Q Prior to its actual passage? 14 A Yes. 15 Q In -- what was it, July 2000? 16 A July 10th, yes. 17 Q Were you involved in the drafting of the 18 ordinance yourself? 19 A Not -- I guess maybe indirectly. The 20 supervisors had obtained a copy of a subdivision ordinance 21 from Cambria County which was kind of the prototype that was 22 used in Jackson. And what I did at least initially was 23 loaded that into my computer and from there the township 24 would cut, paste and get input from the planning commission, 25 etcetera.</p> | <p style="text-align: right;">21</p> <p>1 ordinances are -- and land development ordinances are a good 2 idea generally. In our county right now the county planning 3 commission is working on a prototype subdivision ordinance 4 that perhaps will be adopted by most of the townships in the 5 county. 6 Q Let me ask you this: You said that they 7 obtained a copy of the Cambria County subdivision ordinance? 8 A It wasn't Cambria County. It was a township 9 in Cambria County. I don't recall which township it was. 10 Q That's fine. So they obtained a copy of 11 that -- 12 A Yes. 13 Q -- ordinance and they sent it to you you think 14 maybe a year before the ordinance was actually passed? 15 A Yes. 16 Q What did you understand from them sending it 17 to you that they were asking you to do in terms of advising 18 them about the subdivision ordinance? 19 A Well, to look at the ordinance and determine 20 whether it would be appropriate for Jackson Township. It 21 was a very comprehensive ordinance. 22 Q Is it fair to say that when they sent you 23 something that you took that as an indication that they were 24 looking for your guidance or advice or comments? 25 A I would say yes, yes.</p> |

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22

1 Q Now, you said that you didn't have much hand
2 in drafting it. Were there a number of drafts, though, of
3 this subdivision ordinance?
4 A Yes, there were.
5 Q About how many do you think?
6 A Several.
7 Q Who was doing the drafting to your knowledge?
8 A Well, as I said to you, I loaded it into the
9 computer and then I believe that the township got that on
10 disk and --
11 Q From your computer?
12 A Right. And then through the various review
13 processes, whether it be the county planning commission,
14 public input, whatever, then I believe the township actually
15 made the changes.
16 Q Who at the township made them?
17 A I assume it would have been Ann Wirth, the
18 township secretary.
19 Q You mentioned I think public comment or
20 something just now. You said through the various changes.
21 A Yes.
22 Q What kind of public comment are you talking
23 about?
24 A Well, I -- you know, the township is required
25 by statute to advertise and I know there was at least one

23

1 public meeting, which I didn't attend, but, you know, there
2 were -- certainly residents of the township were interested
3 in the ordinance.
4 Q Was that public meeting the meeting at which
5 they passed it?
6 A No.
7 Q What public meeting was that?
8 A I know that there was a public meeting in
9 January of 2000.
10 Q Where they discussed the subdivision
11 ordinance?
12 A That was the purpose of the meeting. I wasn't
13 there.
14 Q What about the meeting in July 2000 when they
15 passed the ordinance, were you there?
16 A No.
17 Q Did you know that they were going to pass the
18 ordinance?
19 A Yes, I did.
20 Q Now, in the January 2000 meeting isn't it
21 correct that they passed a moratorium -- or they attempted
22 to pass a moratorium on subdivisions --
23 A Yes.
24 Q -- in Jackson Township?
25 A Yes. I don't believe those meetings were the

24

1 same night, but I'm not positive.
2 Q Oh, you think there was a separate meeting in
3 January --
4 A I think there might have been, right.
5 Q In January when they discussed the township
6 ordinance and when they passed the moratorium?
7 A I'm really not sure if the meeting nights were
8 the same.
9 Q Under the township code requirements, they
10 would have been required to advertise both of those
11 meetings, correct?
12 A They did.
13 Q They did advertise both meetings if there --
14 A Well, the -- Jackson meets the first Monday of
15 the month and it's my understanding that there's one
16 advertisement that's placed in the newspaper concerning when
17 they meet for the whole year. If there is a special
18 meeting, that would be advertised.
19 Q So they advertise their monthly meeting every
20 month; is that what you're saying?
21 A No, that's not what I said.
22 Q I'm sorry.
23 A I believe they put one advertisement in the
24 newspaper setting forth when they will meet throughout the
25 year.

25

1 Q I understand.
2 A I don't do that, but that's my understanding
3 of what happens.
4 Q Now, if they were going to do something other
5 than just the ordinary meeting, something like pass a
6 subdivision ordinance at a monthly meeting, would they then
7 be required to put an ad in --
8 A Yes.
9 Q Just let me finish for the record. Put an ad
10 in stating that that's what they were going to do?
11 A Yes.
12 Q And is that also true for the moratorium?
13 A That I don't know.
14 Q Let me ask you this: Did you know prior to
15 the time they passed the moratorium or attempted to pass it
16 in January 2000 that they were going to do so?
17 A No.
18 Q Did they seek your advice about doing so at
19 any time?
20 A I received a phone call from Ann Wirth asking
21 me if it was permissible for a municipality to have a
22 moratorium on subdivisions. My response was I think so.
23 Q Did they ask you whether it was permissible to
24 have a moratorium when there actually wasn't a subdivision
25 ordinance in place? Did they ask you that specific

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| <p style="text-align: right;">26</p> <p>1 question?</p> <p>2 A They did not.</p> <p>3 Q They did not?</p> <p>4 A No.</p> <p>5 Q But at that time did you know that there</p> <p>6 wasn't a subdivision ordinance in place?</p> <p>7 A Yes, obviously we were working on one.</p> <p>8 Q Did they follow up with you again after that</p> <p>9 initial phone call from Ann Wirth about whether or not it</p> <p>10 was appropriate to put a moratorium in place in that</p> <p>11 situation?</p> <p>12 A I became aware that the moratorium was in</p> <p>13 place.</p> <p>14 Q You became aware after it was done?</p> <p>15 A After it was done, right.</p> <p>16 Q Now, I take it -- you know, you testified</p> <p>17 earlier that when they contacted you or when they sent you</p> <p>18 something you understood that to be a request for your</p> <p>19 guidance or advice or something like that. After you said I</p> <p>20 think so, did you then go and do anything else to find out</p> <p>21 whether it was appropriate for them to put a moratorium in</p> <p>22 place in this --</p> <p>23 A I did not.</p> <p>24 Q When did she ask you this question? When did</p> <p>25 Ann Wirth ask you whether it was appropriate for the</p> | <p style="text-align: right;">28</p> <p>1 Q Do you in fact know whether or not the</p> <p>2 township supervisors advertised specifically prior to the</p> <p>3 January meeting that they would be adopting a moratorium?</p> <p>4 A I do not know that.</p> <p>5 Q Did they ask you whether or not they were</p> <p>6 required to advertise?</p> <p>7 A They did not.</p> <p>8 Q So after they adopted the moratorium, did you</p> <p>9 have occasion to discuss with them the impact of it or the</p> <p>10 legality of it or anything like that?</p> <p>11 A Not really until after the lawsuit was filed.</p> <p>12 Q Well, I think you testified a moment ago that,</p> <p>13 you know, if they were going to do something like a</p> <p>14 subdivision ordinance, they would need a period of public</p> <p>15 comment or an advertisement or something like that. Did you</p> <p>16 have any concerns that they would need the same thing for a</p> <p>17 moratorium?</p> <p>18 A Well, perhaps I should have, but, you know,</p> <p>19 again, I was just asked that question and really did not</p> <p>20 follow it up further.</p> <p>21 Q So you had a general idea that they were going</p> <p>22 to do the moratorium but you didn't know exactly when they</p> <p>23 were going to do it?</p> <p>24 A Well, I really didn't know until after it was</p> <p>25 done.</p> |
| <p style="text-align: right;">27</p> <p>1 township to put a moratorium in place?</p> <p>2 A I'm just guessing sometime in December.</p> <p>3 Q It was fairly close to the January meeting and</p> <p>4 is that why you're guessing December?</p> <p>5 A Yes, sometime in December would be my</p> <p>6 estimate.</p> <p>7 Q Now, after the moratorium was put in place,</p> <p>8 did you understand that they were looking for guidance to</p> <p>9 see whether or not the moratorium that they had put in place</p> <p>10 was appropriate?</p> <p>11 A I don't think I was ever consulted about that</p> <p>12 subsequent with respect to a specific question.</p> <p>13 Q The moratorium was never placed in writing,</p> <p>14 correct?</p> <p>15 A Well, I believe it was adopted at a township</p> <p>16 meeting.</p> <p>17 Q But there was no like official document that</p> <p>18 says we hereby adopt a moratorium or anything like that?</p> <p>19 A I believe there is.</p> <p>20 Q Do you know where that is?</p> <p>21 A Well, I believe it was in the January minutes,</p> <p>22 is what I'm referring to.</p> <p>23 Q Okay. So you're saying that the official</p> <p>24 document consists of the January minutes?</p> <p>25 A To my understanding, yes.</p> | <p style="text-align: right;">29</p> <p>1 Q Do you keep time cards for your work for the</p> <p>2 township?</p> <p>3 A No.</p> <p>4 Q How do you keep track of your time?</p> <p>5 A Sometimes that's difficult. I try to</p> <p>6 reconstruct things. Generally I have not kept time records</p> <p>7 for the township.</p> <p>8 Q So at the time that you decide that it's time</p> <p>9 to bill them, you just try and remember what you did?</p> <p>10 A Pretty much.</p> <p>11 Q And you put it directly onto an invoice?</p> <p>12 A Yes. You lose a lot of time that way, by the</p> <p>13 way.</p> <p>14 Q I know, we hear about that all the time in the</p> <p>15 profession. So you don't have any records of time --</p> <p>16 A I don't.</p> <p>17 Q -- kept for -- the only records would be the</p> <p>18 actual invoice that you send?</p> <p>19 A Correct.</p> <p>20 Q You do keep records of the invoices, however?</p> <p>21 A Yes.</p> <p>22 Q Did anybody ask you in connection with this</p> <p>23 lawsuit to search your files for documents in response to a</p> <p>24 request for production of documents from the Corneals?</p> <p>25 A I don't believe so.</p> |

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30

1 Q Not at any time ever?

2 A **Well, be more specific with your question.**

3 Q Okay. I will represent to you, and anybody

4 can object that wants to, that there was a request for

5 production of documents served upon the supervisors, the

6 township defendants, in September of 2000 which asked that

7 they or any of their agents or affiliates or, you know,

8 servants or whatever --

9 A **Okay, I did get a -- I did get a phone inquiry**

10 **from Ann Wirth and she asked me if I had any record of the**

11 **public meeting, the advertisement of the public meeting**

12 **requesting comment on the subdivision ordinance.**

13 **Apparently-- she may have called the Daily**

14 **News, which is our local paper, general circulation, and**

15 **they initially couldn't find anything. I, you know,**

16 **initially looked and I couldn't find anything. And what I**

17 **had done at her request is prepared an advertisement to be**

18 **placed in the Daily News.**

19 Q You did this when?

20 A **Well, I -- I assume it would have been in**

21 **December because the -- I'm not positive, but I think the**

22 **public meeting was on January 8th and I -- you know,**

23 **basically I prepared the advertisement, gave it to the Daily**

24 **News and Ann couldn't find it. In any event, I called her**

25 **back and at the time I called her back the Daily News had**

31

1 found the advertisement.

2 Q The advertisement for the January 8th meeting?

3 A **I believe it was January 8th.**

4 Q Now, are you saying that was a different

5 meeting than the regular monthly meeting?

6 A **Well, if you can tell me what day of the week**

7 **January 8th was --**

8 Q I think we can do that. When did she call you

9 and ask you whether or not you had any records of the public

10 meeting?

11 A **This would have been very -- very recently.**

12 Q In the last two weeks?

13 A **I would say yes.**

14 Q Was it in the last week?

15 A **Well, I think it was shortly before the time**

16 **you and Mr. Sherr were coming to her office to look at**

17 **documents.**

18 Q I see.

19 A **So if that's -- that's a good time reference,**

20 **it would have been before that, shortly before.**

21 Q Was that the first time that anybody contacted

22 you at all about producing documents in connection with this

23 lawsuit?

24 A **That I can recall.**

25 MS. SIMPSON: I have a January 2000 calendar

32

1 if you want him to look at it.

2 MS. MONTGOMERY: Sure. Thank you.

3 THE WITNESS: Well, I'm wrong on the 8th

4 because I'm sure this wouldn't have been on a Saturday. It

5 might have been on the 6th.

6 BY MS. MONTGOMERY:

7 Q Well, we're going to look for a second through

8 our documents to see if we have anything that would, you

9 know, match up with the notice that you're talking about.

10 So you're saying that she then got that or told you that the

11 Daily News had located --

12 A **The Daily News had it, right. And I think she**

13 **said the Daily News had faxed it to her. So I think you**

14 **would have had it with your -- with your document review.**

15 MS. MONTGOMERY: Excuse me a moment.

16 (Pause.)

17 BY MS. MONTGOMERY:

18 Q What about the July notice, did she -- well,

19 the notice for the July 10th meeting at which the

20 subdivision ordinance was passed --

21 A Yes.

22 Q -- did she contact you about that at all?

23 A **You mean at the time?**

24 Q Yes.

25 A Yes.

33

1 Q You mean prior to the time the subdivision

2 ordinance was passed?

3 A **Well, she would have contacted me at that time**

4 **to advertise that ordinance and I believe there were two**

5 **other ordinances that were being considered that evening.**

6 Q Did you draft the notice for the newspaper for

7 the ordinances that were to be passed --

8 A Yes.

9 Q -- at the July 10 meeting?

10 A Yes.

11 Q I'm going to show you something that we'll

12 mark as Newton Exhibit 1.

13 (Notice produced and marked as Newton Exhibit

14 No. 1.)

15 BY MS. MONTGOMERY:

16 Q First of all, I'd ask you to look at the

17 handwriting that is on this exhibit and I'll represent to

18 you that we got this -- well, you can see the fax legend is

19 from Mr. Sherr's office.

20 A **Um-hum.**

21 Q So we had this faxed to us on May 11th. Do

22 you know whose handwriting that is on the side?

23 A **I do not.**

24 Q It's not yours?

25 A No.

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| <p style="text-align: right;">34</p> <p>1 Q Do you know what plus item number 3, January 2 2000 -- 3 A I have no idea what it means. 4 Q -- minutes refers to? 5 A I do not. 6 Q Do you know what day of the week or what date 7 actually this notice was placed in the Daily record? 8 A Daily News? 9 Q Daily News. 10 A I do not. 11 Q From your memory do you have an estimate of 12 the time period when this was placed in the Daily News? 13 A Well, it would have to have been placed at 14 least seven days prior to the meeting. Other than that I 15 don't know. 16 Q Do you know whether that occurred? 17 A I assume it did. 18 Q Do you have a copy of this in your files that 19 would perhaps have a date on it? 20 A I probably have a copy in my files, but I 21 don't believe it would have a date on it. 22 Q Does the -- 23 A The practice is -- when you take something to 24 the Daily News, there's normally a two or three day lead 25 time between the time you present it and when it's actually</p> | <p style="text-align: right;">36</p> <p>1 at the Daily News. Now, that wouldn't be part of the 2 ordinance necessarily, but it would be part of the township 3 record. 4 Q Okay. 5 MS. MONTGOMERY: Excuse me for just one 6 second. 7 (Pause.) 8 BY MS. MONTGOMERY: 9 Q So your testimony is that the proof of 10 publication would be with the original ordinance? 11 A Well, not necessarily the original ordinance, 12 but it would be with the township records. 13 Q Somewhere in the township records? 14 A Yes. 15 Q Do you know how the township records are kept? 16 A I do not. 17 Q You've never given any advice to them on how 18 to keep their records? 19 A I have not. 20 Q Do you know whether they keep their ordinances 21 -- or how they keep their ordinances? 22 A Well, they should keep them in an ordinance 23 book. And I'm sure over the years I've mentioned that to 24 them, but I don't know. 25 Q Now, let's talk a little bit more about the</p> |
| <p style="text-align: right;">35</p> <p>1 put in the paper. 2 Q Who actually presents it to the Daily News? 3 A I would have presented this to the Daily News. 4 Q Because you drafted the ordinance notice? 5 A Yes, and I'm -- it's just a couple blocks 6 away. 7 Q So is that called the Huntingdon Daily News? 8 A It's called the Daily News. 9 Q The Daily News? 10 A Yes. 11 Q And it's a Huntingdon, Pennsylvania 12 publication? 13 A Yes. 14 Q Do you know just from reading that newspaper 15 whether on each page of the newspaper there's a date across 16 the top? 17 A Yes, there would be. 18 Q There would be? 19 A Um-hum. 20 Q So if we could get a copy of the original, we 21 would be able to see that, correct? 22 A Yes. The township would also have that in its 23 file if you have the township records because with the 24 ordinance there's a proof of publication. In other words, a 25 proof of publication that's signed by someone and classified</p> | <p style="text-align: right;">37</p> <p>1 subdivision ordinance. As changes were made to it, you'd go 2 back and forth with Ann Wirth over the changes that were to 3 be added? 4 A I would say that the changes were basically 5 generated by the township. 6 Q And by the township you mean Ann Wirth? 7 A Well, the township and its supervisors. 8 Q So each time she sent you a new change or 9 revision you would review it and comment on it or what? 10 A I would say I would review it. 11 Q But not necessarily comment on it? 12 A Right. 13 Q And why is that? 14 A Well, you know, again, if I had a comment to 15 make, I would make it. I don't recall -- I just don't 16 recall what comments, if any, I had made after the changes 17 started to be made. I think the township primarily was 18 relying upon advice from Richard Stahl who was the county 19 planning director. 20 Q Did you get actual draft copies of the 21 subdivision ordinance or was it e-mailed to you by computer 22 or what? 23 A It wasn't e-mailed. I would say draft copies. 24 Q So Ann would mail them to you or something? 25 A I would say yes, either mail or she would be</p> |

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1 in town and drop them off.
 2 Q Did she ever send you anything in writing, or
 3 did anybody from the township ever send you anything in
 4 writing about the moratorium that was put in place in
 5 January 2000?
 6 A Not until it was requested I think initially
 7 by Mr. Corneal and then through his attorney James Himes did
 8 I get it. My recollection is that when I received that
 9 request I made a request to the township and after receiving
 10 it I delivered it to Jim Himes.
 11 Q Is that how you became aware that the
 12 moratorium had been put into place?
 13 A No, I -- I was aware that the moratorium was
 14 in place, but I had not had that -- that document, that
 15 minute entry until that time.
 16 Q Typically as the township holds its meetings
 17 do they send you -- routinely send you copies of their
 18 minutes?
 19 A No.
 20 Q How do you keep track of what the township has
 21 done at their meetings?
 22 A I don't unless they deem it advisable to let
 23 me know.
 24 Q So do you have copies of the township meetings
 25 in your files -- I mean minutes of the township meetings in

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1 your files?
 2 A No, I do not.
 3 Q Do you sometimes get copies of the minutes of
 4 the township meetings?
 5 A No.
 6 Q How does the township go about letting you
 7 know what they've done? Do they call you or do they write
 8 to you or what?
 9 A It would probably be by telephone.
 10 Q From Ann Wirth or any one of the supervisors?
 11 A Generally from Ann. And I guess occasionally,
 12 you know, writing, too, but it's primarily I would guess
 13 telephone.
 14 Q Well, you mentioned Mr. Corneal a moment ago.
 15 Can you tell me how you first came to come in contact with
 16 Mr. Corneal?
 17 A As a result of this lawsuit?
 18 Q No, first at all, at any time.
 19 A Many years ago we had a case against each
 20 other and it was a land case. I don't recall too much about
 21 it. My client's name was Suydam. It involved I think the
 22 sale of a farm or an installment sale agreement. That, I
 23 believe, is my first contact with him.
 24 Q You mean Mr. Corneal represented the opposing
 25 party?

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1 A Yes, the other party.
 2 Q Mr. Corneal wasn't a party?
 3 A No.
 4 Q So you think that was like 10 years ago or
 5 something, 15?
 6 A At least, probably more.
 7 Q After that how did you first come in contact
 8 with Mr. Corneal?
 9 A Probably through a telephone call he made to
 10 my office.
 11 Q And about what time frame was that?
 12 A I'm just guessing January of 2000.
 13 Q You think that's the first time you talked to
 14 him since the lawsuit that you were mutually involved in on
 15 behalf of clients?
 16 A I believe so. I mean, it could have been in
 17 December, but it was around that time period.
 18 Q Did you have any contact with the supervisors
 19 or Ann Wirth or anybody else in the township about Mr.
 20 Corneal prior to the time he contacted your office?
 21 A No.
 22 Q What did Mr. Corneal say when he contacted --
 23 did you actually talk to him when he contacted your
 24 office --
 25 A I talked to him.

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1 Q -- in December or January 2000?
 2 A He indicated, you know, he was doing a
 3 subdivision. He was anxious to get the subdivision
 4 approved. You know, I believe I said that we didn't have a
 5 subdivision ordinance. It's hard for me to -- to
 6 specifically say what happened in the first conversation. I
 7 think I talked to him on another occasion as well.
 8 Q When he first talked to you, do you know
 9 whether or not the moratorium had been put into place? For
 10 the record, we've done so many of these depositions I may be
 11 being --
 12 A I'm not sure.
 13 Q Hold on a second. I may be being unclear --
 14 A Yeah.
 15 Q -- but I want to say that we're talking about
 16 the moratorium on subdivisions. I don't think we said that
 17 in this depo.
 18 A I believe so.
 19 Q He contacted you before the moratorium was
 20 in --
 21 A No, no, I believe it was after the moratorium.
 22 Q What makes you think it was after the
 23 moratorium?
 24 A I don't know. That's a guess. I simply do
 25 not know.

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1 Q And so he told you that he wanted to get the
2 subdivision approved, right, and what did you tell him?
3 A I don't recall. I think that I indicated that
4 we didn't have a subdivision ordinance. I know that he had
5 an agreement of sale with an individual by the name of
6 Hewett, another individual by the name of Smith and he was
7 anxious to consummate that transaction.
8 Q Did you tell him that he didn't need approval
9 of his subdivision if there was no subdivision ordinance?
10 A I do not recall.
11 Q Do you think he needed approval of his
12 subdivision if there was no subdivision ordinance?
13 A Well, if the moratorium is valid, if you
14 assume that, then of course there couldn't be any
15 subdivision. But if the moratorium is not valid, then he
16 would not need approval.
17 Q Prior to the passage of the moratorium would
18 he have needed approval of his subdivision?
19 A No.
20 Q So he could have just filed a subdivision plan
21 at the recorder of deed's or not filed a subdivision plan,
22 right? He could have just sold off pieces of his property,
23 right?
24 A There is subdivision for DEP planning
25 purposes, but he would not have had to have any township

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1 approval for a subdivision per se.
2 Q Do you know how Mr. Corneal came to even
3 request township approval for the subdivision plan?
4 A I do not.
5 Q Did the township officials contact you about
6 Mr. Corneal contacting them about approval for his
7 subdivision?
8 A Not that I can recall. I just don't know.
9 Q You just testified that if the moratorium was
10 invalid then of course he wouldn't need township approval.
11 Why do you say that?
12 A Well, you know, you wouldn't need township
13 approval unless there is a subdivision ordinance.
14 Q You wouldn't?
15 A You would not. So really the moratorium
16 itself, you know, would only -- if the moratorium is valid,
17 then for that period of time during which there was a
18 moratorium there wouldn't be any subdivisions.
19 Q Well, prior to the time the moratorium was put
20 in place, did the township ask you about that particular
21 issue, can we deny approval of a subdivision or even demand
22 presentation of a subdivision plan if we have no ordinance?
23 A If the township would have asked me, that's
24 what I -- what I would have said.
25 Q You would have said no?

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1 A I would have said no. Now, I don't -- there
2 may have been something in Mr. Corneal's agreement with Mr.
3 Hewett and Miss Smith that related to subdivision approval.
4 So maybe that was what generated this.
5 Q When you were called about the moratorium --
6 by Ann Wirth, correct?
7 A Correct.
8 Q Did Ann Wirth mention Mr. Corneal to you at
9 that time?
10 A I do not believe so.
11 Q Did she mention the reason for the moratorium?
12 A The only thing that was mentioned was that the
13 township wanted to be ready in the event that there were
14 subdivisions coming into the township.
15 Q From State College you mean?
16 A From the Centre County area which is kind of a
17 growth area.
18 Q Do you know whether or not there were any
19 particular spurts of growth or anything like that in the
20 Jackson Township area that would have led to such a concern?
21 A Not that I'm aware of.
22 Q Did Ann Wirth specifically mention Mr. Corneal
23 to you when she talked to you about the moratorium?
24 A Not that I can recall.
25 Q And just so I'm clear about your testimony

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1 earlier, is it that -- you said that you told her I think so
2 about something and that was about the moratorium?
3 A Yes, about the moratorium.
4 Q You thought that she could put in a
5 moratorium?
6 A I thought that the township could --
7 Q The township could?
8 A The moratorium, yes.
9 Q Even though there was no subdivision
10 ordinance?
11 A Correct.
12 Q What do you think -- what is the moratorium?
13 I mean, is it an ordinance, is it a -- I mean, what is it in
14 terms of a legal tool or entity or document?
15 A Well, what Jackson Township did was just do it
16 by way of a motion in its regular meeting. Whether or not
17 more needs to be done I don't know.
18 Q Is there a vote required, do you know?
19 A I don't know. In this case there was a vote.
20 Q Was there a -- some sort of a proposal, a
21 written proposal or a resolution or anything like that that
22 would be required to impose a moratorium?
23 A I don't know.
24 Q Let me ask you this: You said that there was
25 a vote. How do you know that there was a vote?

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1 **A** **I knew that there was a vote based upon the**
2 **minutes that I received from Ann Wirth.**
3 **Q** **Afterward?**
4 **A** **I think it said moved and seconded, as I**
5 **recall.**
6 **Q** **So we'll go back to Mr. Corneal for a moment.**
7 **You said you think you talked to Mr. Corneal twice?**
8 **A** **I think so.**
9 **Q** **The first time you think was sometime in**
10 **December, January, you're guessing?**
11 **A** **I'm guessing. I'm just guessing.**
12 **Q** **When do you think the second time was?**
13 **A** **I don't know.**
14 **Q** **Was it after the township refused to allow him**
15 **to subdivide, do you know that?**
16 **A** **I would say it probably would be, yes.**
17 **Q** **And did you speak directly with him?**
18 **A** **Yes.**
19 **Q** **Did he call you or did you return his call or**
20 **what?**
21 **A** **I think he called me.**
22 **Q** **And you took the call?**
23 **A** **Yes.**
24 **Q** **And what was the substance of that**
25 **conversation?**

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1 **A** **I think the substance of the conversation was**
2 **he requested my assistance to see what could be done to**
3 **resolve the conflicts with the township.**
4 **Q** **Did he mention the moratorium to you?**
5 **A** **Not that I can recall.**
6 **Q** **Do you think there was a need for a moratorium**
7 **in the township?**
8 **MS. SIMPSON: Objection, irrelevant.**
9 **MS. MONTGOMERY: I'm sorry?**
10 **MS. SIMPSON: It's irrelevant. It's asking**
11 **for a legal opinion.**
12 **MS. MONTGOMERY: Well, relevance --**
13 **THE WITNESS: That's not my -- I don't know.**
14 **MS. MONTGOMERY: Are you instructing him not**
15 **to answer?**
16 **MS. SIMPSON: No.**
17 **THE WITNESS: I don't know. That's not my**
18 **decision.**
19 **BY MS. MONTGOMERY:**
20 **Q** **You don't know whether or not there was a need**
21 **for a moratorium?**
22 **A** **That's not something that -- my opinion is not**
23 **relevant in my opinion.**
24 **Q** **What township is Huntingdon in -- or, no, what**
25 **township is in -- is there a -- I'm asking a silly question**

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1 I think. Jackson Township is not within the town of
2 Huntingdon or anything? You don't live in Jackson Township,
3 is what I'm trying to get to.
4 **A** **No, I do not. There's Huntingdon borough that**
5 **I reside in.**
6 **Q** **Right, sorry. How far away from that is**
7 **Jackson Township?**
8 **A** **I would say approximately 16 miles.**
9 **Q** **Sixteen miles?**
10 **A** **Yes. Jackson Township is halfway between**
11 **Huntingdon borough and Centre County.**
12 **Q** **I'm going to show you a document that's been**
13 **previously marked as Wirth Exhibit 6 but we'll mark it again**
14 **as Newton 2. I'll ask you to look at it, please, after the**
15 **court reporter has marked it.**
16 **(Minutes dated 1/4/00 produced and marked as**
17 **Newton Exhibit No. 2.)**
18 **THE WITNESS: Okay.**
19 **BY MS. MONTGOMERY:**
20 **Q** **Are these the minutes that you're referring**
21 **to?**
22 **A** **Yes, and I see I was in error. I don't see a**
23 **move and a second with respect to the moratorium.**
24 **Q** **But these are the minutes that you're**
25 **referring to that --**

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1 **A** **Yes.**
2 **Q** **-- put you on notice that there was a**
3 **moratorium?**
4 **A** **Well, as I said, I think I became aware that**
5 **there was a moratorium prior to receiving these minutes.**
6 **Q** **Oh, okay. All right, but --**
7 **A** **Yes.**
8 **Q** **But these are the minutes that you're**
9 **referring to that --**
10 **A** **Yes.**
11 **Q** **That reflect the moratorium?**
12 **A** **Yep.**
13 **Q** **Thank you. Now, I think you had testified**
14 **earlier that there was a vote. Now, if there wasn't a vote,**
15 **would the moratorium in your opinion, aside from the**
16 **question -- aside from the question of whether or not you**
17 **could put a moratorium in place when there was no**
18 **subdivision ordinance, if there was no vote, would it be an**
19 **effective moratorium?**
20 **A** **I don't know.**
21 **Q** **When you are asked about township procedure,**
22 **you know, for example, whether or not a township can put a**
23 **subdivision ordinance in place, whether or not they can put**
24 **a moratorium in place, whether or not they need to vote, to**
25 **what do you refer, what law?**

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1 A Well, either the township code or the
2 Municipalities Planning Code.
3 Q And you just don't know as you sit here
4 whether or not -- you know, what the answer to those
5 questions I asked --
6 A And, again, these are the minutes. I don't
7 know if the minutes accurately reflected what happened at
8 the meeting.
9 Q Now, back to Mr. Corneal for a moment. Do you
10 recall receiving correspondence from Mr. Corneal?
11 A Yes.
12 Q What did you do with that correspondence when
13 you received it?
14 A I believe I forwarded it onto the township.
15 Q Did you call Mr. Corneal back after you
16 received the correspondence from him?
17 A I don't believe so.
18 Q So the two times you think you talked to him
19 were in response to telephone calls from him, correct?
20 A That's correct.
21 Q Did you ever receive other telephone calls
22 that did not actually result in a conversation between the
23 two of you?
24 A I don't know. I did receive calls from Jim
25 Himes.

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1 Q Did you return --
2 A On behalf of Mr. Corneal.
3 Q Did you talk to Mr. Himes?
4 A Yes, I did.
5 Q But other than those two phone calls, you
6 never talked to Mr. Corneal again on the telephone anyway?
7 A I don't believe so.
8 Q Did you talk to him in person?
9 A No, I did not.
10 Q Let me ask you this: Did Mr. Corneal at some
11 point deliver a copy of the subdivision plan to you?
12 A I think he did.
13 Q And what did you do with that?
14 A I delivered it to the township.
15 Q Do you know how he came to deliver a copy of
16 that subdivision plan to you?
17 A I don't.
18 Q Did you ask him to do it?
19 A I don't recall.
20 Q Did you receive it -- this copy of a
21 subdivision plan, did you receive it after one of the phone
22 calls you had with Mr. Corneal?
23 A I would say I did.
24 Q Were you expecting it, let me ask you that?
25 Were you expecting this copy that you received?

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1 A I really can't say. I don't recall if he said
2 in the telephone conversation he was going to drop it off,
3 but I do know that I received it and I don't know if it came
4 -- I certainly wasn't there when it was dropped off. I
5 don't know if it came from Mr. Corneal personally or perhaps
6 from David Simpson who at the time I believe was working for
7 him. Mr. Simpson is a surveyor.
8 Q Did you have any occasion after receiving a
9 copy of the subdivision ordinance -- I'm sorry, the
10 subdivision plan from Mr. Corneal, did you have any occasion
11 to talk with the township supervisors or Ann Wirth or any
12 other township officials about Mr. Corneal's efforts to
13 build on his property and to subdivide?
14 A I believe I attended a meeting in May.
15 Q May of 2000?
16 A May of 2000. And the primary purpose of --
17 the township was having -- having difficulty with New
18 Enterprise Stone and Lime Company and I think it was the
19 result of a road that they had done and they were having all
20 kinds of problems with it, the bond was going to run out,
21 and I think that was -- they asked me to come out and look
22 at that, which I did, and I believe at that time Mr.
23 Corneal's subdivision was also discussed.
24 Q Was this a public meeting?
25 A Well, no.

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1 Q This was a private meeting with the township
2 supervisors?
3 A It was a meeting -- it was like a workshop
4 meeting.
5 Q What is a workshop meeting?
6 A It was a meeting to discuss, at least in my
7 view, general administrative business. I think there was
8 some response that had to be taken with respect to the New
9 Enterprise situation and I know I did a letter on that. I
10 don't recall the exact nature of it.
11 Q Now, a workshop meeting, when is a workshop --
12 you said a workshop meeting is to discuss administrative
13 matters, I believe?
14 A (Witness nods head affirmatively.)
15 Q Are these routine meetings that the township
16 holds?
17 A Not that I'm aware of. The reason that I was
18 called, I think, was to address this New Enterprise
19 situation that had a deadline.
20 Q When was this workshop meeting held?
21 A I think it was in May.
22 Q Prior to the May public meeting, 2000?
23 A You mean the township meeting?
24 Q Yes.
25 A I don't know.

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| <p style="text-align: right;">54</p> <p>1 Q Have you ever been to any other workshop 2 meetings? 3 A After the lawsuit -- this lawsuit was filed, I 4 attended I believe two meetings with the township to discuss 5 the lawsuit and the complaint. 6 Q Now, where does the term workshop meetings 7 come from? Is that your term or is it something -- 8 A That's my term. 9 Q Is that something the township officials use 10 as well? 11 A That I'm not aware of. I don't know. 12 Q Do you know -- are you familiar with meetings 13 held by the township supervisors and the secretary and 14 anybody else prior -- immediately prior to the public 15 meetings? 16 A I'm not. 17 Q You've never discussed those and they've never 18 discussed those meetings with you? 19 A No. 20 Q You've never been at a meeting with them of 21 that nature? 22 A No. Anytime I attend a meeting -- the 23 meetings are held at the fire hall, Stone Creek Valley Fire 24 Hall, and I've never been to a prior -- 25 Q To a pre-meeting?</p> | <p style="text-align: right;">56</p> <p>1 Q If you're going to meet in person with the 2 supervisors or Ann Wirth or any other township official, do 3 you generally do it in your office or do you just have 4 telephone conferences? 5 A Well, we've had -- we have had meetings in my 6 office. I'd say primarily by telephone. And there are 7 occasions where, you know, I either go to the regular 8 township meeting or -- 9 Q Have you ever been to a township meeting when 10 Mr. Corneal was present? 11 A No, I have not. 12 Q Have you ever been to a township meeting at 13 which Mr. Corneal's issues, his building and subdivision 14 issues were discussed? 15 A I may have been and I don't -- I can say for 16 sure that I was never at a township meeting attended by Mr. 17 Corneal. If Mr. Corneal attended the March meeting, I 18 definitely was not there. I know that there was a meeting 19 that I attended in which the subdivision -- the township -- 20 a regular township meeting in which the subdivision 21 ordinance was discussed. 22 And the reason I seem to recall that is that I 23 had a copy of at that time what our proposed ordinance was 24 and someone in the audience asked if they could review it 25 and I said sure and gave it to them, and I'm not positive</p> |
| <p style="text-align: right;">55</p> <p>1 A Right. 2 Q How about meetings at Ann Wirth's, the 3 secretary's office? I think I said that badly. The 4 secretary, Ann Wirth's office on her property, have you ever 5 been to a meeting there? 6 A Just what I've described to you. There were 7 two times where I met with them concerning this lawsuit and 8 I believe there was a time in May that I met with them 9 concerning the New Enterprise issue. And I believe at that 10 time Mr. Corneal's -- I may have delivered the subdivision 11 at that time. I just don't recall. 12 Q The subdivision plan you mean? 13 A Yes. 14 Q So the workshop meetings that you're referring 15 to are held at Ann Wirth's office? 16 A Yes. 17 Q On her property? 18 A Correct. That is also the township office. 19 Q Correct. 20 A That's where the township records are kept. 21 Q Have you had other opportunity to go to the 22 township office besides these workshop meetings? 23 A No. 24 Q Have you been there only three times? 25 A Those are the times that I can recall.</p> | <p style="text-align: right;">57</p> <p>1 when that was. 2 Q Do you recall who that person was? 3 A I don't. 4 Q Do you recall how many people were at that 5 meeting? 6 A I would say seven to 10 maybe. 7 Q Do you recall who any of those seven to 10 8 people might have been? 9 A I don't. 10 Q You mentioned a moment ago that you had two 11 meetings about this lawsuit after it was filed. 12 A Two meetings regarding this lawsuit and other 13 related issues, litigation issues. There may have been 14 another meeting that would have dealt with Mr. Corneal 15 building without a building permit. 16 Q And when do you think that was? 17 A Again, I don't know. It was certainly after 18 -- I believe that we had filed -- when I say we, the 19 township filed in October. 20 Q When you say filed, you mean the lawsuit that 21 you filed in Huntingdon County? 22 A Yes. I believe that was in October. 23 Q And -- 24 A So it would have been prior to that. We may 25 have had a meeting on that lawsuit. I don't know.</p> |

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|--|---|
| <p style="text-align: right;">58</p> <p>1 Q Who was present at the two meetings that you 2 remember, aside from the one you just discussed which you're 3 not sure about?</p> <p>4 A One meeting the township supervisors, myself, 5 Ann Wirth. I think that's all. Another meeting of the 6 township supervisors, myself and Mr. Sherr and Ann Wirth.</p> <p>7 Q Did Mr. Sherr represent you at that time?</p> <p>8 A No.</p> <p>9 Q Mr. Sherr has never represented you, correct?</p> <p>10 A No.</p> <p>11 Q At that first meeting where Mr. Sherr wasn't 12 present, where was that meeting held? At Ann Wirth's office 13 you said?</p> <p>14 A At the township office.</p> <p>15 Q Do you know when that meeting was?</p> <p>16 A I do not.</p> <p>17 Q And at that time --</p> <p>18 A It would have been after -- I think the 19 lawsuit was filed -- I know we were served I think 4th of 20 July weekend. So I'm just guessing it would have been 21 sometime in July of 2000.</p> <p>22 Q And at that time did you discuss the legality 23 of the moratorium?</p> <p>24 A No, we dealt with the lawsuits.</p> <p>25 Q What about the legality of the subdivision --</p> | <p style="text-align: right;">60</p> <p>1 MR. SHERR: I object to the form of the 2 question and assert attorney/client privilege at this time.</p> <p>3 MS. MONTGOMERY: You can object, but you can't 4 instruct him not to answer and you don't represent him.</p> <p>5 MR. SHERR: I can instruct on behalf of the 6 privilege holders that their attorney not answer.</p> <p>7 MS. MONTGOMERY: Well, he's just testified 8 generally that he hasn't given advice about the subject of 9 this lawsuit and that you didn't represent him in connection 10 with this lawsuit. So I don't think those discussions are 11 privileged.</p> <p>12 MR. SHERR: I think they are and I don't think 13 he said what you just stated he said and that the purpose of 14 that meeting was to discuss the lawsuit and he was there as 15 a representative of the township.</p> <p>16 MS. MONTGOMERY: No, he didn't say that at 17 all.</p> <p>18 BY MS. MONTGOMERY:</p> <p>19 Q Were you there --</p> <p>20 A Yes, I did.</p> <p>21 Q You were there as the township's attorney?</p> <p>22 A I was there as the township solicitor, yes.</p> <p>23 Q As the township solicitor?</p> <p>24 A (Witness nods head affirmatively.)</p> <p>25 Q In response to this lawsuit you were there as</p> |
| <p style="text-align: right;">59</p> <p>1 well, of refusing to allow Mr. Corneal to subdivide or to 2 build, did you discuss that?</p> <p>3 A Well, we discussed it in the sense that we 4 went over the paragraphs of the complaint, you know, 5 paragraph by paragraph. So to that extent it was discussed, 6 the context of the complaint.</p> <p>7 Q The second meeting that you recall when Mr. 8 Sherr was present, was Mr. Van Dommelen present at that 9 meeting?</p> <p>10 A He may have been. I can't say for sure, but 11 he may have been.</p> <p>12 Q So you said the township supervisors, Ann 13 Wirth, yourself, Mr. Sherr and who else?</p> <p>14 A If Mr. Van Dommelen was there. He could have 15 been there.</p> <p>16 Q Do you recall meeting with Mr. Van Dommelen 17 about this lawsuit at some time?</p> <p>18 A Only in that context, yes.</p> <p>19 Q You do recall him being at some meeting in 20 which you --</p> <p>21 A I would say yes.</p> <p>22 Q So at that second meeting that Mr. Sherr was 23 present at, did you at that time then discuss the -- 24 generally discuss the legality of preventing Mr. Corneal 25 from building or from subdividing?</p> | <p style="text-align: right;">61</p> <p>1 the township solicitor?</p> <p>2 A Correct.</p> <p>3 MS. MONTGOMERY: I'm going to take a short 4 break right now. We'll come back in 15 minutes. 5 (Break taken at 10:54 a.m. until 11:24 a.m.)</p> <p>6 BY MS. MONTGOMERY:</p> <p>7 Q Mr. Newton, you had indicated that you bill 8 the township for legal advice given to the township at some 9 point after you give them that legal advice, right?</p> <p>10 A Right.</p> <p>11 Q Now, you also have indicated now that you 12 attended this meeting at which Tony Sherr was present as 13 solicitor to the township and not as a defendant in the 14 lawsuit?</p> <p>15 A (Witness nods head affirmatively.)</p> <p>16 Q Did you bill the township for your attendance 17 at that meeting?</p> <p>18 A Not yet, but I will.</p> <p>19 Q When was that meeting?</p> <p>20 A Sometime in July, last July.</p> <p>21 Q So it's been 11 months?</p> <p>22 A Yes.</p> <p>23 Q Now, have you billed them since for other 24 work?</p> <p>25 A No, I haven't.</p> |

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1 Q You haven't sent them a bill since last July?
 2 A **No, I haven't.**
 3 Q And you don't have any records of work that
 4 you've done from -- during that time period, July? Are you
 5 just going to try to reconstruct it?
 6 A **Yes.**
 7 Q I'm going to ask you some questions and just
 8 see what happens here. It's my position that if in fact
 9 there is any attorney/client privilege about advice that you
 10 gave concerning the issues in this lawsuit that it has been
 11 thoroughly waived. All of the deponents in this case have
 12 answered numerous questions about conversations with you and
 13 there's been no objection.
 14 Your own counsel has asked the individual
 15 deponents about communications with you and there's been no
 16 objection from Mr. Sherr. So I'm going to ask my questions
 17 and we'll go from there.
 18 Back to the meeting at which you were present
 19 when Mr. Sherr was present, at that time was there any
 20 inquiry made of you as to whether or not the moratorium that
 21 was put in place was effective or legal?
 22 MR. SHERR: Object to the form of the question
 23 and on behalf of the privilege holders instruct the witness
 24 not to answer.
 25 BY MS. MONTGOMERY:

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1 Q Mr. Sherr is not your counsel, correct?
 2 A **That's right.**
 3 MS. MONTGOMERY: What we're going to be forced
 4 to do is halt the deposition and schedule it for another
 5 time because it's been very clear why we need to have Mr.
 6 Newton's deposition and I'm going to need to present a
 7 motion to the court that includes transcripts of testimony
 8 from all the other depositions showing that this privilege
 9 has long ago been waived.
 10 MR. SHERR: Well, I would --
 11 MS. MONTGOMERY: If indeed there was a
 12 privilege.
 13 MR. SHERR: I would suggest that you follow
 14 the dictates of the federal rules in this regard and mark
 15 that and ask the rest of your questions, take the rest of
 16 your deposition and we'll have the court rule on that at a
 17 later time as the federal rules provide.
 18 MS. MONTGOMERY: Well, as I said, I'm putting
 19 on the record right now that you are preventing me from
 20 asking questions about communications with the township
 21 supervisors that have always been known to be the subject of
 22 this deposition and we are going to have to reschedule
 23 additional time after the filing of the motion to quash,
 24 after the filing of a motion with the judge.
 25 MS. SIMPSON: Let me interject here. This

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1 objection and the claim of privilege arises from this
 2 meeting at which the township defendants, Mr. Sherr and Mr.
 3 Newton were all present and they were discussing issues of
 4 the lawsuit. I believe that questions to the township
 5 officials that have been deposed have been with respect to
 6 communications prior to this meeting and not involving this
 7 meeting and specific advice, legal advice, that was rendered
 8 or questions that were asked of Mr. Newton.
 9 Now, I agree with Mr. Sherr, this is a
 10 particular area -- if you've got questions to ask --
 11 MS. MONTGOMERY: Oh, we're going to go
 12 forward.
 13 MS. SIMPSON: Okay.
 14 MS. MONTGOMERY: I am, yes.
 15 MS. SIMPSON: Okay. So you will ask questions
 16 other than what occurred at this meeting?
 17 MS. MONTGOMERY: Sure, absolutely.
 18 MS. SIMPSON: You said we were going to halt
 19 the deposition --
 20 MS. MONTGOMERY: I'm sorry, I didn't mean to
 21 say it that way. What I really am saying is -- trying to
 22 put counsel on notice that we will have to reschedule in
 23 order to get the questions that we need to have answered
 24 answered, even if it's -- even if it requires submitting
 25 them in camera to the judge.

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1 MS. SIMPSON: That assumes that your motion
 2 would be granted.
 3 MS. MONTGOMERY: Exactly. I'm not assuming
 4 anything, but I'm saying that I'm not going to give up the
 5 issue and I'm just putting counsel on notice as a matter of
 6 courtesy that if you're going to not allow me to ask these
 7 questions now I'll have to go to the court to try to ask
 8 them later and we'll go on with whatever you allow him to
 9 answer at this time, okay.
 10 MR. SHERR: And just so we're clear, the
 11 objection goes to this meeting that was attended -- I have
 12 not objected to any other conversations that my clients have
 13 had with Mr. Newton other than attendance at a meeting which
 14 I attended to discuss this lawsuit. And I am not preventing
 15 you from asking any questions. I'm merely asserting
 16 attorney/client privilege with respect to this meeting.
 17 MS. MONTGOMERY: Have you read the deposition
 18 transcripts since you're asserting this privilege and saying
 19 it hasn't been waived? Have you read the deposition
 20 transcripts that have been provided?
 21 MR. SHERR: You know, let's just go on with
 22 the deposition.
 23 MS. MONTGOMERY: So you're asserting the
 24 privilege and you're refusing to answer that. Have you read
 25 the deposition transcripts?

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1 MR. SHERR: You know, I don't have to answer
 2 your questions and I certainly don't have to answer
 3 questions about what I have done or have not done and I'm
 4 not going to do that. So why don't you just --
 5 MS. MONTGOMERY: Just so we have a good record
 6 for the court of the basis for your objection.
 7 MR. SHERR: I made my basis very clear on the
 8 record. I don't know how I can make it any clearer.
 9 MS. MONTGOMERY: Okay.
 10 BY MS. MONTGOMERY:
 11 Q Mr. Newton, have you been made aware of a
 12 court order that requires sequestration of the defendant
 13 deponents in this matter?
 14 A Yes.
 15 Q When did you become aware of it?
 16 A I believe it was from my counsel. I don't
 17 recall.
 18 Q No, I mean when.
 19 A I don't know.
 20 Q Have you had any communication with the
 21 defendant deponents, the other defendants in this case, the
 22 supervisors, the building permit officer, the sewage
 23 enforcement officer for Jackson Township since the middle of
 24 May 2001?
 25 A Any communication at all?

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1 Q No -- well, any communication at all.
 2 A Yes.
 3 Q Have you had any communication with them about
 4 the contents of their depositions --
 5 A No.
 6 Q -- since the middle of May?
 7 A No.
 8 Q Have you had any communication with them prior
 9 to the middle of May about what the content of their
 10 depositions would be?
 11 A No. Let me say that I've had communication
 12 with Ann Wirth, not about the content of the deposition but
 13 about the health of Ralph Weiler who is one of the
 14 supervisors. That's kind of a tangential issue. Again, not
 15 with respect to the content of the deposition, but sometime
 16 in May Barry Parks, who is the SEO for the township, and I
 17 met at Mr. Corneal's property and Mr. Parks made a comment
 18 about the length of his deposition, but that was it.
 19 Q Thank you for that. If you had billed the
 20 township since last July, would you have included any work
 21 that had been done in the period prior? Say you billed them
 22 in November, would you have included your work --
 23 A Work prior, now what do you mean?
 24 Q Well, if you billed the -- say you billed the
 25 township in November 2000, would you have included the work

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1 done for that period of time prior to November back to the
 2 last time you billed them?
 3 A Yes.
 4 Q Mr. Newton, I'm going to show you an exhibit
 5 that has been previously marked but we're going to mark it
 6 again for purposes of this deposition and ask you to look at
 7 it.
 8 (Letter dated 1/31/00 produced and marked as
 9 Newton Exhibit No. 3.)
 10 BY MS. MONTGOMERY:
 11 Q Mr. Newton, do you recognize this letter?
 12 A I do.
 13 Q Do you recall receiving it?
 14 A Yes.
 15 Q For the record, it's a letter -- a January 31,
 16 2000 letter from David Corneal to you, correct?
 17 A Correct.
 18 Q Now, do you recall when you received this
 19 letter whether you had spoken to Mr. Newton -- I mean to Mr.
 20 Corneal prior to receiving this letter, as the letter itself
 21 indicates?
 22 A I don't have a recollection but the letter
 23 says as per our telephone conversation. So I assume that I
 24 did.
 25 Q Do you recall whether in your telephone

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1 conversation -- well, do you recall whether that telephone
 2 conversation that he refers to in this letter was the first
 3 or the second of the two that you remember?
 4 A I don't know. I would think it would be the
 5 first.
 6 Q So do you recall receiving a telephone call
 7 after receiving this letter?
 8 A Yes, yes.
 9 Q I'm just trying to put the whole thing in a
 10 good time frame for us so we can work it out. What did you
 11 do with this letter when you received it?
 12 A I believe I forwarded it to the township.
 13 Q Did you have some discussions with the
 14 township about his -- the concerns set forth in this letter?
 15 A Not that I can recall.
 16 Q I mean, did you just send it on with an FYI or
 17 something?
 18 A I -- I feel certain I would have sent it on.
 19 If I had any discussion, it would have been with Ann Wirth.
 20 Q Why would it have been with Ann Wirth?
 21 A Because she was my contact person with the
 22 township.
 23 Q She's the one who relayed information back and
 24 forth from the supervisors to you and from you to the
 25 supervisors?

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1 A I don't know if relay information is correct,
 2 but she was the person that I generally -- when I received a
 3 contact from the township, it would generally be through
 4 Ann.
 5 Q If the township was asking for advice, the
 6 township supervisors were asking for advice, would you
 7 convey that information to Ann?
 8 A It depends. I mean, if she would call me,
 9 yes.
 10 Q And so you would -- that would be your way of
 11 giving advice to the township, to talk to Ann?
 12 A Again, it depends. It depends on the context.
 13 Q Well, let me just ask it another way then. At
 14 times your way of giving advice to the township would be to
 15 communicate information to Ann, correct?
 16 A That's correct.
 17 Q You notice in this letter that there was some
 18 concern raised about the Hewetts and their commitment for a
 19 loan for settlement for purchase of a piece of the tract of
 20 land at issue in this case?
 21 A Yes.
 22 Q Do you know the Hewetts?
 23 A I do not.
 24 Q Have you met the Hewetts?
 25 A No.

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1 Q Have you -- and I'm using the Hewetts a little
 2 loosely.
 3 A I think there's a Hewett and a Smith, as I
 4 recall.
 5 Q Right, exactly, but they are a couple,
 6 correct?
 7 A Yes.
 8 Q So have you met either one of them?
 9 A I don't believe so.
 10 Q Have you spoken with them on the telephone?
 11 A I spoke one time with Mr. Hewett.
 12 Q In what context was that?
 13 A Mr. Hewett called me because he was having
 14 trouble with Mr. Corneal regarding this agreement of sale.
 15 Q When you say trouble with Mr. Corneal, what do
 16 you mean by that?
 17 A That's my term. He was having difficulty in
 18 dealing with Mr. Corneal, whether it was regarding his
 19 agreement of sale -- he wanted representation.
 20 Q Did you ever represent Mr. Hewett?
 21 A No. He asked if I could represent him and I
 22 said no. I felt it could be a potential conflict because I
 23 was the township solicitor. I -- my normal practice in
 24 those circumstances would be to give him names of other
 25 attorneys, one of whom was Mr. Reeder, and he ended up

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1 retaining Mr. Reeder.
 2 Q When he called you and told you that he was
 3 having trouble with Mr. Corneal, did he tell you what the
 4 trouble was?
 5 A He probably did, but I don't remember. You
 6 know, again, he wanted representation in dealing with Mr.
 7 Corneal and that's the extent that I got into it.
 8 Q Do you know whether he already had -- let me
 9 ask you this: Did you talk to him before -- Mr. Hewett
 10 before receiving this letter?
 11 A I don't know. I don't know when it was. I do
 12 know that I did talk to him at my office and he called on
 13 the telephone.
 14 Q So he called you and then you had him come in,
 15 is that how it happened?
 16 A No, he never came in. I told him I could not
 17 represent him. I had a conflict --
 18 Q Oh, I'm sorry.
 19 A -- and then I gave him -- I certainly gave him
 20 the name of Mr. Reeder. And, again, my normal practice
 21 would be to give him two or three other attorneys as well.
 22 I don't know if I did that or not, but I know that I gave
 23 him Mr. Reeder's name.
 24 Q But when you just said I talked to him at my
 25 office, you meant you were at your office?

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1 A I was at my office, yes.
 2 Q And it was on the telephone?
 3 A Yes, correct.
 4 Q Just the one time?
 5 A One time.
 6 Q Did you ever talk to Miss Smith?
 7 A No.
 8 Q Were you ever at a township meeting where the
 9 Hewett and Smith --
 10 A No. I'm sorry I jumped the gun. No.
 11 Q That's okay. I need to finish my sentence,
 12 that's all. Maybe this will help us place the time frame a
 13 little bit, you know, in context. Do you recall whether or
 14 not you discussed this letter that you received --
 15 A I'm certain I didn't discuss this letter.
 16 Q Let me finish my sentence. Whether or not you
 17 discussed this letter that you received from Mr. Corneal
 18 with Mr. Hewett when he called?
 19 A I feel certain I did not discuss the letter.
 20 Q Did you discuss this letter with Mr. Reeder?
 21 A No.
 22 Q But you did send it onto the township?
 23 A I believe so, yes.
 24 Q Do you recall whether -- do you recall
 25 speaking to Mr. Hewett about his concerns about Mr.

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1 Corneal's efforts to obtain permission for his subdivision?
2 A No.
3 Q When you say you don't recall, are you certain
4 it never happened or you just don't recall?
5 A I don't recall. What I recall from the
6 conversation is that he wanted representation in his
7 dealings with Mr. Corneal. That's what I recall.
8 Q So Mr. Hewett eventually chose to go to Mr.
9 Reeder, correct?
10 A Correct.
11 Q Now, did you have any discussions with Mr.
12 Reeder about Mr. Corneal's efforts to obtain township
13 cooperation in subdividing and selling this property?
14 A Generally, no. At some point in time Mr.
15 Reeder asked me if I thought that the township would have
16 its subdivision ordinance adopted by June 30th and I
17 responded I didn't think so and that was the extent of my
18 conversation with Mr. Reeder.
19 Q And what was the June 30th date?
20 A I don't know. That was Mr. Reeder's question
21 to me.
22 Q So you remember the June 30th date. How do
23 you recall that?
24 A My recollection is that that was the time in
25 which the agreement of sale between Mr. Corneal and Mr.

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1 Hewett and Miss Smith -- that had to be consummated by that
2 date.
3 Q So you told him at that time -- now that you
4 recall that that was what the June 30th was relevant to, you
5 told him at that time you didn't think the subdivision
6 ordinance would be approved, right?
7 A By June 30th, yes.
8 Q Right, by June 30th. What was the extent of
9 your conversation --
10 A That was it.
11 Q -- with Mr. Reeder? Just for her sake, wait
12 until I finish the question. So it was just one question?
13 A Generally, yes, that's all I can recall.
14 Q Did you have any other conversations with Mr.
15 Reeder about Mr. Corneal's property?
16 A Not that I can recall.
17 Q What about after the subdivision ordinance was
18 put into place?
19 A Well, I know I showed Mr. Reeder the -- this
20 complaint, this lawsuit, but other than that that's about
21 it.
22 Q Why did you show Mr. Reeder the complaint?
23 A Well, we're both municipal solicitors and I
24 wanted him to be aware of it.
25 Q Mr. Reeder represents various townships and

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1 boroughs as well?
2 A He represents some townships and boroughs.
3 Q Does he represent counties as well?
4 A No.
5 Q Just townships and boroughs?
6 A Yes.
7 Q Do you know which ones he represents?
8 A Well, I know he represents the borough of
9 Mount Union. I know he represents the zoning board for
10 Huntingdon borough. I'm not sure about townships.
11 Q Did you ever have occasion to discuss with Mr.
12 Reeder the Hewett's withdraw from the sales agreement,
13 cancellation of the sales agreement with Mr. Corneal?
14 A I was aware that Mr. Reeder on behalf of Mr.
15 Hewett filed an action, a magisterial action against the
16 Corneals.
17 Q How did you become aware of that?
18 A Mr. Reeder told me.
19 Q Do you know why Mr. Reeder told you that?
20 A I do not.
21 Q Was it just your practice to discuss business
22 back and forth about your clients?
23 A Occasionally we do.
24 Q What about the moratorium, have you ever
25 discussed the moratorium with Mr. Hewett?

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1 A I don't believe so.
2 Q I'm sorry, I mean Mr. Reeder.
3 A I don't believe so.
4 Q What about the ordinance itself and the
5 legality of it or anything like that, did you ever discuss
6 that with --
7 A No.
8 Q With Mr. Reeder?
9 A No.
10 Q I'm going to show you another letter that
11 we're going to mark as Newton Exhibit 4.
12 (Letter dated 8/18/00 produced and marked as
13 Newton Exhibit No. 4.)
14 BY MS. MONTGOMERY:
15 Q I'd ask you to take a look at it for me,
16 please. Do you recall receiving this letter, which for the
17 record is an August 18, 2000 letter from Mr. Corneal to Mr.
18 Newton?
19 A I believe I did, yes.
20 Q What did you do with this letter?
21 A I believe I forwarded it onto the township.
22 Q Did you call Mr. Corneal back about it?
23 A No.
24 Q Did you send Mr. Corneal the building permits
25 that -- application forms that he's asking you for?

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1 A I believe that was done by the township. I
2 did not. I did not have them.
3 Q Did you advise the township supervisors that
4 they really ought to send him these applications?
5 A I would say I probably did.
6 Q Did you ever receive back from Mr. Corneal a
7 copy of the filled out application forms?
8 A Not that I can recall.
9 Q Were you consulted about the applications once
10 they were sent?
11 A No.
12 Q Were you consulted about a building permit for
13 Mr. Corneal in general?
14 A I would say -- I would say yes. There was a
15 -- I know I wrote to Mr. Corneal at the request of the
16 township and I think it was in July, the end of July,
17 because he had commenced construction without a building
18 permit. So I wrote to him then and asked him to stop
19 construction until he received a building permit.
20 So the building permit issue was an issue that
21 had been discussed I think quite frequently because I
22 believe the township supervisors were being criticized
23 because Mr. Corneal was acting really on his own and the
24 township really wasn't doing anything to enforce the
25 building permit ordinance.

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1 Q Do you know when you wrote the July letter
2 that you referred to -- do you know whether or not Mr.
3 Corneal had been given building permit applications at that
4 time?
5 A I don't know. I don't know.
6 Q Do you recall talking at all with the township
7 supervisors or the building permit officer or anybody else
8 about Mr. Corneal's request for building permit
9 applications?
10 A No.
11 Q Were you ever informed about a visit that Mr.
12 Corneal made to Mr. Van Dommelen to obtain building permit
13 applications?
14 A I was.
15 Q When were you informed about that?
16 A I don't know.
17 Q Were you asked for advice about that?
18 A No.
19 Q They just told you about it -- what did they
20 tell you -- who told you and what did they tell you?
21 A I believe it was Ann Wirth and Ann Wirth
22 related to me that I think Mr. Corneal had been to Mr. Van
23 Dommelen's home to get applications. And of course at that
24 point there had not been a sewage permit so the building
25 permit applications could not have been granted without the

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1 sewage permit. So I did become aware of that through Mrs.
2 Wirth.
3 Q Were you aware that they wouldn't even give
4 him an application?
5 A I became aware of that.
6 Q When did you become aware of that?
7 A Through Miss Wirth.
8 Q At the same time?
9 A I think at the same time.
10 Q Was it about the time frame in which Mr.
11 Corneal went to Mr. Van Dommelen and made that request?
12 A I don't know.
13 Q You don't recall?
14 A I think he clearly should have had the
15 building permit applications.
16 Q I'm going to show you a letter that we'll mark
17 as Newton Exhibit 5 and ask you to look at it for me,
18 please.
19 (Letter dated 7/28/00 produced and marked as
20 Newton Exhibit No. 5.)
21 BY MS. MONTGOMERY:
22 Q Is this the letter that you're referring to
23 that you wrote in July?
24 A Yes, it is.
25 Q Now, at the time that you wrote this letter

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1 you were aware that Mr. Corneal hadn't even received
2 applications, correct?
3 A I don't know that. I don't know where this
4 letter fits in in terms of time.
5 Q But at least at this point in time the
6 supervisors had called you and told you that they were
7 denying -- refusing to give Mr. Corneal building permits,
8 correct?
9 A I don't know that. Again, I don't know when
10 this was in terms of Mr. Corneal's meeting with Mr. Van
11 Dommelen, whether it was before or after.
12 Q I'm going to show you a letter that we'll mark
13 as Newton Exhibit 6 and ask you to identify that for the
14 record if you can.
15 (Letter dated 5/5/00 produced and marked as
16 Newton Exhibit No. 6.)
17 BY MS. MONTGOMERY:
18 Q Have you seen this letter in the past?
19 A I have.
20 Q How did you come to see it?
21 A I think that Mr. Corneal sent it to me.
22 Q You think he sent you a copy of it?
23 A Yes.
24 Q This letter is dated May 5, 2000, correct?
25 A Yes.

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1 Q And it indicates that he had been unable to
2 obtain an application, correct?
3 A Yes.
4 Q You believe that he copied you at the time
5 that he sent it to Mr. Van Dommelen?
6 A Yes.
7 Q What did you do about this letter, if
8 anything?
9 A I believe that Mr. Corneal wrote me a letter
10 around the same time, maybe the same date.
11 Q Mr. Corneal wrote you a letter around the same
12 date?
13 A Yes. And my sense is I probably would have
14 forwarded both onto the township.
15 Q At that time did you provide the township with
16 any advice about whether or not they ought to have given Mr.
17 Corneal at least an application?
18 A Well, I understood why the township didn't
19 give him an application, because of the sewage permit
20 issue. It was around this time -- and I believe it was
21 after I got these letters from Mr. Corneal and there was a
22 letter addressed to me and then a copy of a letter to Mr.
23 Van Dommelen that I suggested to the township that we get
24 together and meet with Mr. Corneal and see if we could work
25 this out.

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1 I recall in the last conversation I had with
2 Mr. Corneal he had mentioned to me that he was considering
3 litigation, a lawsuit, and I certainly didn't want that to
4 happen and I believe in his letter to me he even mentioned
5 that. So I contacted the township and put a request in to
6 -- let's meet, sit down and see if we can resolve the
7 differences.
8 Q And what occurred at that time?
9 A At what time?
10 Q Well, you said you called the township and
11 told them that we ought to meet and sit down and talk about
12 this. What occurred?
13 A The response back was that they didn't want to
14 meet.
15 Q They didn't want to meet with you?
16 A They didn't want to have a joint meeting with
17 Mr. Corneal and myself to try to resolve whatever
18 differences the parties had.
19 Q Who gave you that response?
20 A That response was given to me by Ann Wirth.
21 Q Was that in a telephone call?
22 A Yes.
23 Q Did she tell you why they didn't want to meet?
24 A She indicated that Mr. Corneal's conduct at
25 the township meetings was disrespectful. He apparently had

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1 lost his temper and as a result the supervisors felt
2 reluctant to meet.
3 Q And what was your response to that, they don't
4 have to meet if they don't want?
5 A That's their decision, right.
6 Q What about the issue of them not even giving
7 him an application? I mean, did you indicate to them that
8 you at least needed to resolve that?
9 A Well, I don't -- I don't specifically recall.
10 I did indicate that he needed -- he needed to have, you
11 know, building permit applications. I mean, I'm certain
12 that that was communicated at one point or another and it --
13 I wrote him again after the July letter in August, again at
14 the request of the township.
15 Q Now, I think you indicated that you had
16 received a letter directly from Mr. Corneal around the same
17 time that he copied you on that letter to Mr. Van Dommelen,
18 correct?
19 A Correct.
20 Q I'll show you a letter that we'll mark as
21 Newton Exhibit 7 and I'd ask you to look at that, please.
22 (Letter dated 5/5/00 produced and marked as
23 Newton Exhibit No. 7.)
24 BY MS. MONTGOMERY:
25 Q Is this the letter that you're referring to

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1 that you --
2 A Yes.
3 Q That you received from Mr. Corneal?
4 A Correct.
5 Q Now, you may have testified to this but -- and
6 I'm sorry if you already did, but did you then forward this
7 letter onto the supervisors?
8 A I believe so, yes.
9 Q If you were going to forward letters to the
10 supervisors, you would send them to Ann Wirth; is that
11 correct?
12 A The township office, which would be the
13 township address, the R.D. 1 box number.
14 Q With respect to the contents of this letter,
15 you note that -- Mr. Corneal makes reference to a refusal to
16 receive a building permit to construct a garage, okay. Now,
17 do you recall at the time did you discuss with the township
18 their refusal to even give a permit or an application to
19 construct a garage?
20 A Well, I believe their reason for that is it
21 was more than a garage. It was a three-bay garage and it
22 had -- according to what I subsequently learned from Mr. Van
23 Dommelen seeing the sketch that I think Mr. Corneal had,
24 there was an apartment on the second floor of this garage
25 which would have required a sewage permit.

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1 Q Mr. Van Dommelen showed you that sketch?
2 A No, he did not. I just became aware of that
3 either through -- probably through Mrs. Wirth.
4 Q At what time did you -- were you told that by
5 Mrs. Wirth?
6 A I don't know.
7 Q Do you know what it is that made Mrs. Wirth
8 believe that this was a -- that there was supposed to be an
9 apartment over this garage?
10 A My understanding is that that information came
11 from Mr. Van Dommelen, but I don't know. I can tell you
12 that in late May I was on site and in fact there's a
13 three-bay garage and an apartment. That's what was in fact
14 constructed.
15 Q An apartment?
16 A Yes.
17 Q Did you go inside?
18 A Yes.
19 Q What was inside that made you believe that
20 there was an apartment?
21 A A kitchen, bathroom. I think it was described
22 by someone as a mother-in-law suite.
23 Q When did you go inside?
24 A It was the -- the date -- if you have a
25 calendar, I can tell you. It was a Friday in May. I was

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1 with Terry Williams and it was the time we met on site with
2 Mr. Corneal's SEO, Mr. Bowes, to look at the test holes that
3 had been done. Now, this was this year now, not in 2000.
4 This was this May.
5 Q Okay, but --
6 A I would say -- I'm looking at a calendar
7 here. I think it was May 18th, 2001.
8 Q But back to May 2000, which is the point at
9 which he couldn't even get an application for his garage,
10 what was it that made Miss Wirth or anybody else believe
11 that he was looking to build an apartment?
12 A I think it was based upon the sketch that he
13 showed Mr. Van Dommelen, but I don't know. I really don't
14 know the answer to that.
15 Q Did there come a time when you learned that
16 Mr. Corneal sought to build a garage with a storage area
17 over it?
18 A No.
19 Q Nobody ever told you about that request?
20 A No.
21 Q What about the art studio? Do you know
22 anything about his request to build an art studio?
23 A Not really, other than the fact that he was
24 building one.
25 Q Did anybody from the township ever talk to you

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1 about the fact that Mr. Corneal wanted to build an art
2 studio?
3 A I would -- I'd have to say yes, but I don't
4 have any specific recollection.
5 Q If you don't have any specific recollection,
6 what is it that makes you think yes?
7 A That information was communicated to me
8 somehow and I don't recall how. In fact, there is a garage
9 with an apartment above it, there is an art studio, there is
10 a home and there is another separate garage on the property
11 as constructed now.
12 Q Do you know when Mr. Corneal commenced
13 construction on his property?
14 A I don't know exactly, but certainly in the
15 year 2000. And as of May 18th of 2001, it looked to me like
16 construction was basically completed.
17 Q Well, on May 5th, 2000 when he was asking you
18 for applications, trying to get applications, had he started
19 construction?
20 A I don't know.
21 Q How about in the summer of 2000 when he
22 instituted this lawsuit?
23 A Yes, the July 28th letter I think was written
24 because it came to the township's attention that he had been
25 constructing.

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1 Q Do you know what he was constructing at that
2 time?
3 A I do not know.
4 Q Did the township tell you what he was trying
5 to construct at that time?
6 A I don't know.
7 Q Do you know whether if Mr. Corneal wanted to
8 build a property that didn't require sewage, build a
9 structure that didn't require sewage --
10 A Not that I'm aware of.
11 Q Well, I didn't finish my question. Do you
12 know whether if that's what he wanted to build, whether he
13 would need approval of sewage modules?
14 A I don't believe so if no sewage was
15 contemplated.
16 Q Do you know whether if what he wanted to build
17 was just a garage or an art studio without sewage or water,
18 whether that would be considered -- that act occurring would
19 be considered a subdivision of his land?
20 A Well, I don't think it would be a subdivision
21 for DEP purposes unless the second structure contained
22 sewage.
23 Q Do you recall at any time discussing with the
24 township officials, any of the defendants in this case,
25 whether the building of a second home would render Mr.

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1 Corneal's 95-acre tract a subdivision?
2 A Well, it's my understanding -- and I think I
3 learned actually at our May 18th meeting when we were
4 talking to Mr. Bowes, who was the SEO there, the
5 interpretation that Altoona DEP has given to our townships
6 in that area is that, yes, in fact that is a subdivision for
7 DEP purposes.

8 Mr. Bowes informed me that in terms of the
9 Williamsport area if the first structure was maybe over 20
10 years old or more they don't consider that to be a
11 subdivision.

12 So, you know, there's probably -- there is
13 some conflict between DEP, but we -- the township was
14 following the direction given from Altoona and that's what
15 has been done in our county.

16 Q Well, now, let me just ask you this: Is this
17 something that came up in the context of Mr. Corneal's
18 property or is it just something that has -- you've been the
19 township solicitor for what, 15 years you said?

20 A Approximately.

21 Q The entire 15 years has this been an applied
22 rule?

23 A It's been an applied rule in Huntingdon County
24 and I'm aware of that rule being applied to other townships.

25 Q Do you know what this interpretation by DEP

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1 Q Did they ever consult you about this notion of
2 a subdivision occurring as a result of the construction of a
3 second home?

4 A That was discussed, yes.

5 Q About Mr. Corneal?

6 A Yes.

7 Q Had they ever consulted you in the past about
8 that?

9 A I would say yes, but maybe not necessarily
10 with this board of supervisors.

11 Q When did they consult you about this
12 subdivision notion resulting from the construction of a
13 second home?

14 A I don't have a specific date, but I know it
15 was -- it was discussed and I believe my conversation was
16 with Ann Wirth.

17 Q Do you know whether it was prior to the time
18 that you received these letters from --

19 A I don't know.

20 Q From Mr. Corneal.

21 A I don't know.

22 Q Do you know whether it was prior to the time
23 this lawsuit was filed?

24 A I'm sure it was prior to the time the lawsuit
25 was filed.

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1 comes under, what law? What are they looking at to base
2 their interpretation on?

3 A Well, it's the Pennsylvania Sewage Facilities
4 Act and the regulations promulgated thereunder.

5 Q That's what DEP has told you they're --

6 A That's my understanding.

7 Q What about the Municipalities Planning Code,
8 do you know whether there was anything in there that would
9 indicate that the construction of any additional home would
10 render a 95-acre tract a subdivision?

11 A I'm not aware of any, no.

12 Q Do you know of any other instances in Jackson
13 Township when the attempt to build a second home on a large
14 tract of land, say 50 or 95 acres like this, has been
15 treated as a subdivision where there is another existing
16 structure?

17 A I can tell you that -- I don't have any
18 specific knowledge, but I know this has always been the
19 interpretation. And Leroy Koch, who was the secretary prior
20 to Ann Wirth, was one of the founding members of the
21 Huntingdon County Sanitary Administrative Committee and I
22 know that the committee adopted that interpretation.

23 So whether or not it had applied previously in
24 Jackson Township, my inclination is to say yes, but I can't
25 give you any specific example.

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1 Q In imposing this interpretation on Mr.
2 Corneal, were the township supervisors acting pursuant to
3 your guidance and advice?

4 A I would say that they were acting in
5 conformance with the practice and procedures utilized in
6 Huntingdon County by direction of DEP.

7 Q But in discussing it with you was Miss Wirth
8 seeking advice on behalf of the township?

9 A If she was seeking advice, I agreed with that
10 position because that's a position that has always been
11 taken in our county.

12 Q What was the nature of that conversation?

13 A I don't recall.

14 Q Do you recall how long the conversation was?

15 A I don't.

16 Q Was it a telephone conversation?

17 A It was a telephone.

18 Q Do you know that it happened prior to the
19 initiation of this lawsuit?

20 A The lawsuit I think was filed in July -- June
21 or July of 2000 and I feel certain it was before. I'm not
22 saying it wasn't also discussed after, but I think it was
23 also discussed before.

24 Q Was there a time that you became aware of Mr.
25 Corneal's recording of an additional deed in connection with

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|--|--|
| <p style="text-align: right;">94</p> <p>1 his property?</p> <p>2 A Yes.</p> <p>3 Q How did you become aware of that?</p> <p>4 A I think it -- first of all, all deeds that are</p> <p>5 recorded in our county are published in the paper. I may</p> <p>6 have seen it in the paper. And I did become aware that I</p> <p>7 think the recording of this deed violated the Clean and</p> <p>8 Green restrictions which would have meant rollback taxes</p> <p>9 would have been paid. I believe I may have received a</p> <p>10 request from Ann Wirth to get a copy of the deed and forward</p> <p>11 it to them.</p> <p>12 Q Do you know when that request was made?</p> <p>13 A I do not.</p> <p>14 Q What makes you think that the recording of</p> <p>15 this deed would -- well, before I ask you that, you don't</p> <p>16 recall exactly how you learned about the recording of the</p> <p>17 deed?</p> <p>18 A I may have seen it in the paper because I read</p> <p>19 deed transfers and I know that I discussed it with Ann</p> <p>20 Wirth.</p> <p>21 Q Did you initiate that phone call or did she?</p> <p>22 A She did.</p> <p>23 Q Do you know how she became aware of it?</p> <p>24 A Probably through the paper.</p> <p>25 Q And did Miss Wirth ask you to do anything --</p> | <p style="text-align: right;">96</p> <p>1 A I don't know the specifics, although I believe</p> <p>2 the recordation generated something from our assessment</p> <p>3 office to Mr. Corneal.</p> <p>4 Q And what does that have to do with the Clean</p> <p>5 and Green Act?</p> <p>6 A Well, the -- there are certain -- when you</p> <p>7 have property in Clean and Green, it's a preferential</p> <p>8 assessment. So there are restrictions that apply as to how</p> <p>9 much land you can sell over what period of time and whatever</p> <p>10 Mr. Corneal did with the recording of that deed violated</p> <p>11 those restrictions. And I believe subsequently there was a</p> <p>12 corrected deed that was recorded so as a result there wasn't</p> <p>13 any penalty that was imposed.</p> <p>14 Q And how did you find out about the corrected</p> <p>15 deed?</p> <p>16 A Again, I saw it in the paper, looked it up.</p> <p>17 Q What did the corrected deed accomplish?</p> <p>18 A You know, again, I'm not sure. I think it was</p> <p>19 probably a transfer or conveyance back so the status quo was</p> <p>20 maintained.</p> <p>21 Q So you think that the deed was undone? In</p> <p>22 other words, the --</p> <p>23 A Yes.</p> <p>24 Q The transfer was undone?</p> <p>25 A Yes, whatever -- whatever was violative of the</p> |
| <p style="text-align: right;">95</p> <p>1 A No.</p> <p>2 Q -- about recording of that deed?</p> <p>3 A No.</p> <p>4 Q Did you advise Miss Wirth to do anything?</p> <p>5 A No.</p> <p>6 Q Did Miss Wirth discuss with you the question</p> <p>7 of the subdivision ordinance in connection with the</p> <p>8 recording of that deed?</p> <p>9 A I don't believe so.</p> <p>10 Q Now, you recall that the subdivision ordinance</p> <p>11 for Jackson Township was passed at a July 10 meeting,</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q Do you know whether this conversation was --</p> <p>15 with Miss Wirth about this deed occurred before or after</p> <p>16 that meeting?</p> <p>17 A I don't. Certainly it was after the deed was</p> <p>18 recorded obviously, but I don't know.</p> <p>19 Q Do you know when the deed was recorded?</p> <p>20 A I do not.</p> <p>21 Q What is it about the recording of that deed</p> <p>22 that makes you think that recording that deed violated --</p> <p>23 the Clean and Green Act, is that what you said?</p> <p>24 A Yes.</p> <p>25 Q What is it?</p> | <p style="text-align: right;">97</p> <p>1 Clean and Green restriction was corrected.</p> <p>2 Q So is it correct that if Mr. Corneal by</p> <p>3 recording that deed had violated the Clean and Green Act,</p> <p>4 the remedy would have been for him to pay certain taxes; is</p> <p>5 that correct?</p> <p>6 A Rollback taxes, yes. That has nothing to do</p> <p>7 with the township. That's through the county.</p> <p>8 Q And it has nothing to do with the ability to</p> <p>9 subdivide, right?</p> <p>10 A Well, there's certainly a relationship there.</p> <p>11 Q It has to do with preferential tax treatment?</p> <p>12 A Exactly.</p> <p>13 Q And you correct that by paying whatever taxes</p> <p>14 are due, correct?</p> <p>15 A Yes. If Mr. Corneal wanted to pay the taxes,</p> <p>16 he wouldn't have to have done anything.</p> <p>17 Q Now, if I could refer you again to the May 5,</p> <p>18 2000 letter to you from Mr. Corneal, it makes a reference to</p> <p>19 the supervisors assuring citizens that the subdivision</p> <p>20 ordinance under contemplation would be approved by April.</p> <p>21 Do you know anything about that?</p> <p>22 A I do not.</p> <p>23 Q Do you know whether there was ever an April</p> <p>24 deadline for approving the subdivision ordinance?</p> <p>25 A I do not.</p> |

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1 Q Did the supervisors ever talk to you about the
 2 effect that failure to approve the ordinance was having on
 3 Mr. Corneal's efforts to convey a piece of his property to
 4 Mr. Hewett and Miss Smith?
 5 A Not directly, although I do remember Ann Wirth
 6 communicating to me that at one of the meetings that Mr.
 7 Corneal attended Mr. Hewett and Miss Smith were also
 8 present. And at the beginning of the meeting -- at the
 9 beginning of the meeting Mr. Corneal was -- and, again, this
 10 is related secondhand to me, but at the beginning of the
 11 meeting Mr. Corneal was talking about subdivision and
 12 towards the end of the meeting he was saying he wasn't going
 13 to subdivide at all, and that seemed to be, you know,
 14 certainly a conflict if he was going to sell to Hewett and
 15 Smith.
 16 Q You recall Miss Wirth conveying that to you?
 17 A Yes.
 18 Q Anybody else, the building permit officer or
 19 the sewage enforcement officer or anything like that?
 20 A No.
 21 MS. MONTGOMERY: I'm going to have to take
 22 this conference call which I had scheduled for lunch.
 23 (Discussion held off the record.)
 24 (Luncheon recess taken at 12:17 p.m. until
 25 1:02 p.m.)

99

1 BY MS. MONTGOMERY:
 2 Q Let me show you a document that we're going to
 3 mark as Newton Exhibit 8 and let you look at that, please.
 4 (Notice produced and marked as Newton Exhibit
 5 No. 8.)
 6 BY MS. MONTGOMERY:
 7 Q Mr. Newton, I'm just going to draw your
 8 attention to the right-hand column of this series of
 9 classified ads. Do you see the public notice please take
 10 notice?
 11 A Yes.
 12 Q And there are three in a row, right --
 13 A Um-hum.
 14 Q -- that refer to Jackson Township? Have you
 15 seen this before?
 16 A I don't believe so.
 17 Q You had testified earlier that there was --
 18 you thought there might be -- there should have been a
 19 notice in connection with the meeting for the moratorium,
 20 correct?
 21 A No, I testified earlier that there should have
 22 been a notice for the meeting concerning the subdivision
 23 ordinance, the public hearing and also a notice concerning
 24 the regular monthly meeting of the township.
 25 Q I apologize if I recalled -- is it your

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1 testimony that if they were going to pass a moratorium on
 2 subdivisions they wouldn't have had to put a notice in the
 3 newspaper?
 4 A I basically told you I believe that I didn't
 5 know.
 6 Q You believe they do, but you don't know?
 7 A I -- my answer was I don't know.
 8 Q So you haven't seen this Exhibit 8 in the
 9 past?
 10 A Not in this form, no.
 11 Q Have you seen it in some other form?
 12 A If I saw it, it would have been when it was
 13 published in the Daily News, which appears to be 12/28/99.
 14 Q You're saying that because of the handwriting
 15 in the left-hand column, is that what you're saying,
 16 12/28/99?
 17 A I'm just assuming that's when it was
 18 published, yes.
 19 Q If you'll notice, there are three notices
 20 about Jackson Township and the second one is the regular
 21 monthly meeting notice, correct?
 22 A Yes.
 23 Q The first one then would suggest that there
 24 was a special meeting, correct?
 25 A No, actually I think the first one suggests

101

1 that a hearing is taking place on June -- I'm sorry, on
 2 January 4th, 2000 which would be the township's normal
 3 meeting night.
 4 Q So do they sometimes have their public
 5 hearings on the same date --
 6 A Yes.
 7 Q -- as their normal meeting night?
 8 A Yes. I was -- you know, I -- before I didn't
 9 -- I couldn't recall whether or not it was the same night
 10 as the meeting night or it was a different date, but
 11 apparently this makes it clear that it is the same.
 12 Q In other words, that they did the moratorium
 13 and the monthly meeting --
 14 A No.
 15 Q -- on the same date?
 16 A No. What I'm saying is that there was a
 17 public hearing scheduled for January 4th at 7:30 to discuss
 18 and answer questions regarding the proposed subdivision
 19 ordinance. That apparently occurred on the same night as
 20 their normal meeting night.
 21 Q I showed you Exhibit 2 before. If you'll look
 22 at Exhibit 2, the minutes of the meeting.
 23 A Yes.
 24 Q That's dated January 4 as well, right?
 25 A Correct.

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1 Q And that's the meeting at which they passed
2 the moratorium; is that correct?
3 A **That's correct.**
4 Q So typically I think that you had testified
5 that if there was going to be something special going on you
6 would draft the notice?
7 A **I drafted this first notice.**
8 Q For the public hearing?
9 A **Yes.**
10 Q It doesn't say anything about --
11 A **And I don't know that you characterized my**
12 **response correctly. In this instance I drafted the notice**
13 **at the request of the township.**
14 Q Okay.
15 A **Okay.**
16 Q Now, typically if you draft the notice, is it
17 signed by you or is it signed by -- you know, as in the
18 paper here it's signed by Ann Wirth, or could it be either
19 way?
20 A **Well, it's not really signed. It can be**
21 **either way. In this instance it was -- it was Ann Wirth.**
22 **Typically when I advertise an ordinance, I'll put my name**
23 **and address down and in each instance I would request that**
24 **the statement, the invoice, along with the proof of**
25 **publication be sent to the township.**

103

1 Q Now, did you draft the notice for the
2 reorganizational meeting?
3 A **No.**
4 Q Or for the monthly meeting?
5 A **No.**
6 Q Now, typically where do the bills go for the
7 newspaper notices that get published?
8 A **To the township.**
9 Q Even if you're the one who drafts and calls
10 the newspaper and puts it in?
11 A **When I submit something to the Daily News, I**
12 **direct that the statement and proof of publication be sent**
13 **to the township.**
14 Q So I'm going to mark as Newton Exhibit 9
15 another document that I'll ask you to look at, please.
16 (Bill dated 12/28/99 produced and marked as
17 Newton Exhibit No. 9.)
18 BY MS. MONTGOMERY:
19 Q Have you seen that before? For the record,
20 it's a bill apparently from the Joseph Biddle Publishing
21 Company; is that correct?
22 A **Yes, that's the Daily News. And, no, I**
23 **haven't.**
24 Q Let me ask you this: Is it your understanding
25 that you only need to publish a notice once or is it twice

104

1 prior to any public hearing where there's going to be a vote
2 or a --
3 A **Well, in the -- with respect to the**
4 **subdivision ordinance, it's two times and that is a**
5 **requirement under the Municipalities Planning Code. This --**
6 **more or less the first notice on the public hearing was**
7 **simply an informational thing. It wasn't required by**
8 **anything and it was to try to get some public input, at**
9 **least that was my understanding of it.**
10 Q You mean if there's going to be a public
11 hearing on an issue, it doesn't have to be published
12 separately?
13 A **That's not what I said.**
14 Q What did you say?
15 A **There are separate requirements for**
16 **publication in the Municipalities Planning Code and my**
17 **recollection is that that notice -- that notice has to go in**
18 **two times.**
19 Q If you're going to vote on something, like an
20 ordinance or something like that?
21 A **Right, it's part of, you know, the process.**
22 **And my recollection is that we published the notice two**
23 **times and then we published additional notice of the time we**
24 **were going to adopt the ordinance.**
25 **This initial notice for public hearing was, I**

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1 **believe, for the township's benefit to try to receive public**
2 **input and it didn't count, so to speak, as an advertisement**
3 **as regards the subdivision ordinance. It was simply to try**
4 **to get input from the residents of the township.**
5 Q Just so I'm clear, if you -- if you were
6 required -- and you say you don't know, but if you were
7 required to publish notice of a moratorium the same as
8 you're required to publish notice on the subdivision
9 ordinance, then you'd be required to publish it twice just
10 like you have to for the ordinance, correct?
11 A **I don't know.**
12 Q I'm going to represent to you that we've only
13 seen one notice for the subdivision ordinance meeting that
14 was held on July 10th, 2000 where that subdivision ordinance
15 was passed. Is it your testimony that there were actually
16 two notices published?
17 A **There was another notice published, yes.**
18 Q Do you know when?
19 A **Before the January meeting.**
20 Q Before the January --
21 A **I'm sorry, before the July meeting.**
22 Q Another notice that you drafted?
23 A **Yes.**
24 Q So you drafted both of them. Do you have
25 records of them?

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| <p style="text-align: right;">106</p> <p>1 A I may have. I don't have them with me.</p> <p>2 Q And there would be --</p> <p>3 A I believe the notices that are prior to the</p> <p>4 formal notice concerning the adoption of the ordinance are</p> <p>5 -- again, my recollection is that there is a two notice</p> <p>6 requirement.</p> <p>7 Q Right. And you believe that occurred with</p> <p>8 respect to this subdivision ordinance?</p> <p>9 A Yes.</p> <p>10 Q I want to show you another document we'll mark</p> <p>11 as Newton Exhibit 10.</p> <p>12 (Letter dated 8/3/00 produced and marked as</p> <p>13 Newton Exhibit No. 10.)</p> <p>14 BY MS. MONTGOMERY:</p> <p>15 Q Mr. Newton, this is an August 3, 2000 letter</p> <p>16 from David Corneal to you, correct?</p> <p>17 A Correct.</p> <p>18 Q Do you recall receiving this letter?</p> <p>19 A Yes, I do.</p> <p>20 Q And what did you do with this letter?</p> <p>21 A Forwarded it onto the township.</p> <p>22 Q Anything else?</p> <p>23 A Not that I can recall.</p> <p>24 Q Do you recall having any discussions with</p> <p>25 anybody from the township about this letter?</p> | <p style="text-align: right;">108</p> <p>1 review of the sewer module --</p> <p>2 A No.</p> <p>3 Q -- to see whether it looked complete or</p> <p>4 anything?</p> <p>5 A No.</p> <p>6 Q What about Mr. Corneal's request that you</p> <p>7 forward applications to him in care of Max McClintic?</p> <p>8 A I believe subsequently I forwarded</p> <p>9 applications -- building permit applications, but I believe</p> <p>10 it was to Mr. Corneal directly.</p> <p>11 Q So that was after this August 3rd letter,</p> <p>12 correct?</p> <p>13 A Yes.</p> <p>14 Q Let me ask you about the garage which you say</p> <p>15 now has an apartment over it in which you saw in May of</p> <p>16 2001, correct?</p> <p>17 A Yes.</p> <p>18 Q Do you know when that garage was -- the</p> <p>19 building of that garage commenced?</p> <p>20 A I don't. I can only assume that it was</p> <p>21 commenced sometime in the summer of 2000.</p> <p>22 Q In the summer of 2000 you believe?</p> <p>23 A (Witness nods head affirmatively.)</p> <p>24 Q Did you have any other occasion at any time to</p> <p>25 go to that garage and look at it?</p> |
| <p style="text-align: right;">107</p> <p>1 A I don't. Of course, this was after the</p> <p>2 federal lawsuit was filed. It may have been discussed at</p> <p>3 one of our -- in one of our meetings pertaining to the</p> <p>4 federal lawsuit. I don't recall -- I don't have a specific</p> <p>5 recollection of this letter being discussed.</p> <p>6 Q Now, this letter indicates that Mr. Corneal</p> <p>7 sent you the sewer module for his house which apparently the</p> <p>8 township had indicated there wasn't a proper sewer module</p> <p>9 and that's why he couldn't have a building permit at least</p> <p>10 in part, correct?</p> <p>11 A Mr. Corneal never sent me a sewage module.</p> <p>12 Q Have you ever seen Mr. Corneal's sewage</p> <p>13 module?</p> <p>14 A I don't believe so.</p> <p>15 Q Now, here Mr. Corneal asked you to send him</p> <p>16 applications which he'd been unable to obtain from the</p> <p>17 township, correct?</p> <p>18 A Where are you?</p> <p>19 Q I'm sorry, next to the last paragraph at the</p> <p>20 bottom.</p> <p>21 A Well, I note here I enclose the sewer module</p> <p>22 for my house. I don't remember getting it. If I did get</p> <p>23 it, I forwarded it onto the township, but I don't remember</p> <p>24 it.</p> <p>25 Q So you didn't do -- you don't recall doing any</p> | <p style="text-align: right;">109</p> <p>1 A No.</p> <p>2 Q Has anybody ever told you that when the garage</p> <p>3 was first built it contained just a workshop with no</p> <p>4 sewage --</p> <p>5 A No.</p> <p>6 Q -- and such over top of it? Did you become</p> <p>7 aware of that through any means whatsoever?</p> <p>8 A No.</p> <p>9 Q Is this the first time you've ever heard that?</p> <p>10 A Yes. My understanding was that sewage was</p> <p>11 contemplated for the garage itself, the second floor.</p> <p>12 Q From the very beginning?</p> <p>13 A That was my understanding.</p> <p>14 Q Based on what?</p> <p>15 A Based on what I had been told.</p> <p>16 Q Now I'm going to show you another document</p> <p>17 that we will mark as Newton Exhibit 11 and I'd ask you to</p> <p>18 identify it if you can.</p> <p>19 (Letter dated 8/31/00 with enclosures produced</p> <p>20 and marked as Newton Exhibit No. 11.)</p> <p>21 BY MS. MONTGOMERY:</p> <p>22 Q Mr. Newton, have you seen that letter to Ann</p> <p>23 Wirth dated August 31, 2000 prior to today?</p> <p>24 A I don't believe so.</p> <p>25 Q You've never seen it prior to today?</p> |

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1 A Not that I can recall.
 2 Q Do you recall seeing the building permit
 3 applications?
 4 A I don't.
 5 Q Did you get any telephone calls from Ann Wirth
 6 about these building permit applications?
 7 A Not that I can recall.
 8 Q How about anybody else from the township,
 9 building permit officer, any supervisor, anybody else?
 10 A No.
 11 Q They didn't seek your advice about this at
 12 all?
 13 A Not that I can recall.
 14 Q What about --
 15 A Let me stop there. I was requested by the
 16 township to draft a response to the building permit
 17 applications and I did do that. I think Mr. Van Dommelen
 18 had written a draft and then I basically redid the draft.
 19 Q Well, did you not have an opportunity to look
 20 at the building permit applications in drafting the
 21 response?
 22 A I don't think so. I think my information came
 23 from Ann. I don't recall seeing the applications.
 24 Q Well, let me ask you this: If you didn't have
 25 the building permit applications, who should have had them

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1 Q Did you tell him through telling somebody else
 2 to have him draft that response or did you tell Miss Wirth
 3 to tell him to draft a response?
 4 A Not that I recall. I think that the
 5 applications came to Mr. Van Dommelen. He drafted a
 6 response. I was requested by the township to review it and
 7 to revise it if I felt it necessary.
 8 Q And did you do that?
 9 A Yes, I did.
 10 Q I'm going to show you a letter that we'll mark
 11 as Newton Exhibit 12.
 12 (Letter dated 9/1/00 with enclosures produced
 13 and marked as Newton Exhibit No. 12.)
 14 BY MS. MONTGOMERY:
 15 Q Mr. Newton, have you seen this September 1,
 16 2000 letter to Miss Wirth from Mr. Corneal prior to today?
 17 A I don't believe so.
 18 Q What about the attachments to the letter that
 19 shows the second floor of the garage as open storage? Have
 20 you seen that in the past?
 21 A I don't believe so.
 22 Q Did anybody ever discuss with you this
 23 particular letter?
 24 A Not that I can recall.
 25 Q Did anybody discuss with you the August 31st

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1 in order for you to respond to the building permit
 2 applications that Mr. Corneal filled out?
 3 A Well, you know, again, the application -- my
 4 recollection is that I drafted the response without the
 5 building permit applications based upon information provided
 6 to me.
 7 Q By Ann Wirth?
 8 A Yes.
 9 Q Did you talk to anybody else about it?
 10 A No.
 11 Q Did you talk to the building permit officer?
 12 A No.
 13 Q Mr. Van Dommelen, I mean.
 14 A Yes.
 15 Q But I guess I'll ask you again: If you didn't
 16 have them, who should have had them in terms of -- I mean,
 17 shouldn't somebody at the township review the building
 18 permit applications?
 19 A Well, I think Mr. Van Dommelen did. That was
 20 my understanding.
 21 Q What makes you think that?
 22 A Because he drafted the initial response to the
 23 building permit applications.
 24 Q Did you tell him to draft that response?
 25 A I did not, no.

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1 letter that I showed you just a moment ago with the building
 2 applications?
 3 A Well, only in the context that I drafted a
 4 response to the permit applications.
 5 Q Did anybody discuss with you the drawings and
 6 other things that were attached to the August 31 letter?
 7 A Not that I can recall.
 8 Q Now, I think that you testified earlier that
 9 you drafted this response or that you revised a response
 10 that Mr. Van Dommelen started out writing. I'm going to
 11 show you a document we'll mark as Newton 13.
 12 (Letter dated 10/10/00 produced and marked as
 13 Newton Exhibit No. 13.)
 14 BY MS. MONTGOMERY:
 15 Q Is this the letter that you're referring to
 16 that eventually went out from Mr. Van Dommelen --
 17 A Yes, it is.
 18 Q -- with your assistance?
 19 A Yes.
 20 Q Which part of this letter did you draft?
 21 A I would say basically it's my letter.
 22 Q This makes reference to, in the second
 23 paragraph, your application inadequately described the
 24 proposed construction. What was the inadequacy?
 25 A My recollection is that that was a detail

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1 issue.
2 Q What detail issue?
3 A On what the -- what was to -- what was to be
4 the proposed construction.
5 Q But you never saw the application?
6 A That's right. My communication was, again,
7 through Mrs. Wirth.
8 Q The same is true with respect to your third
9 reason for denying the building permit applications?
10 A That is correct.
11 Q It did not include an adequate plan for the
12 site showing the size and location of the proposed
13 construction, right?
14 A Correct.
15 Q Now, what about this reference to the driveway
16 ordinance? Not having complied with the driveway ordinance,
17 what was that based on?
18 A In July, the July township meeting, the
19 township passed a driveway ordinance.
20 Q And what was it that Mr. Corneal had done that
21 they didn't think was correct?
22 A I don't think he had done anything with
23 respect to the ordinance, is my recollection.
24 Q Well, it says you have not complied with the
25 township's driveway ordinance.

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1 A A copy of which is enclosed.
2 Q Right. In what way didn't he comply?
3 A You know, again, my -- my recollection is he
4 didn't do anything with respect to the driveway ordinance.
5 Q Mr. Corneal didn't do anything?
6 A Correct.
7 Q On whose information are you basing that
8 information?
9 A Township information.
10 Q What did you think he had to do --
11 A I don't have the ordinance in front of me, but
12 there were certain requirements that were set forth in the
13 ordinance and I was informed that he had not complied.
14 Q But you didn't have any individual --
15 independent information --
16 A No, absolutely not.
17 Q Now, the letter also makes a reference to
18 submitting sewage facilities planning modules to the
19 township, correct? It's higher up in the second paragraph.
20 A Yes.
21 Q But you didn't see these sewage facilities
22 planning modules, correct?
23 A Not to my recollection. Again, I -- if Mr.
24 Corneal sent a module with that letter, I don't remember at
25 least examining it.

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1 Q All right, thank you. I want you to just look
2 at the first sentence of this October 10, 2000 letter. It
3 says please be advised that Jackson Township has referred to
4 me for review your applications for building permits, right?
5 A Yes.
6 Q But they didn't give you the applications,
7 right?
8 A Well, this is under Mr. Van Dommelen's
9 signature. I'm really writing the letter for Mr. Van
10 Dommelen and it referred to him, yes.
11 Q But my question still stands, they didn't give
12 you them? I mean, either -- they didn't give you these
13 applications?
14 A Not that I can recall.
15 Q How did Mr. Van Dommelen deliver to you the
16 first draft of his letter?
17 A He did not. I think Mrs. Wirth faxed it to
18 me.
19 Q So he wrote it and gave it to Mrs. Wirth, do
20 you think?
21 A I believe so.
22 Q Did you save a copy of it?
23 A No.
24 Q Do you not usually save copies of things that
25 the township supervisors send to you?

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1 A Not something like that, no.
2 Q Do you have any other copies of any drafts of
3 this letter?
4 A No, I don't.
5 Q When you wrote this letter for Mr. Van
6 Dommelen, did you have any knowledge of whether he had
7 actually reviewed the applications?
8 A I believe he had, yes.
9 Q Now, let me ask you this: Have you ever been
10 involved in an appeal of a denial of a building permit
11 application for any of the townships that you work for?
12 A I don't believe so.
13 Q Never?
14 A (Witness shook his head negatively.)
15 Q What about --
16 A Let me say in this case Mr. Wilson -- Mr.
17 Williams appealed the denial, okay. So in this case he had
18 requested a hearing through the township on the denial of
19 the permits and in that regard I believe I received a
20 telephone call from him.
21 And it was at or about the same time that the
22 township had initiated a lawsuit against the Corneals to the
23 Court of Common Pleas of Huntingdon County because they had
24 commenced construction without a building permit. We had
25 difficulty getting Mr. Corneal served with a copy of the

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1 complaint and motion for preliminary injunction. He's a
2 Centre County resident. We forwarded it, of course, the
3 complaint -- our sheriff's office forwarded the complaint to
4 the Centre County sheriff and he was not able to obtain
5 service.

6 And we had a preliminary hearing scheduled on
7 our request for injunctive relief that couldn't be held
8 because the Corneals weren't served. And it's about this
9 time I get the call from Terry Williams. And, again, I --
10 it's possible that I could have called him after I became
11 aware that he, you know, filed this appeal.

12 Q Do you know whether or not this request for a
13 hearing -- or for an appeal, hearing for an appeal, was
14 actually served, I should say, on the Jackson Township Board
15 of Supervisors prior to the time that the Huntingdon County
16 action was initiated against Mr. Corneal?

17 A I really don't know. All I can say is it was
18 at or about the same time. And I know Terry Williams, I
19 have high regard for him, and I said to him, look, let's sit
20 down and see if we can resolve this. I don't think it's
21 necessary to litigate the denial of the permit applications,
22 let's look to the larger issue and get this -- get this
23 solved.

24 So what we agreed to do on the date that was
25 scheduled for our preliminary hearing, we agreed to meet in

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1 A We met with Mr. Williams in order to try to
2 resolve all the issues involved in this litigation.

3 Q So when you say you had one with Mr. Williams,
4 you mean --

5 A He filed an appeal. We did not ever have an
6 appeal hearing.

7 Q That was my question, did you ever have an
8 appeal hearing --

9 A No.

10 Q -- in connection with any of the local
11 governments that you represent on a building permit
12 application denial?

13 A Not that I can recall.

14 Q Do you know as a township solicitor, a borough
15 solicitor, what kind of hearing should be held in connection
16 with the appeal of the denial of a building permit
17 application? Do you know what the format for that hearing
18 would be?

19 A Without looking it up, no.

20 Q Do you know who would hear the hearing? Who
21 would the hearing be before?

22 A My sense is it would be before the board of
23 supervisors.

24 Q Do you know whether there was ever an appeal
25 hearing held before the board of supervisors in connection

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1 the Huntingdon County Courthouse and in fact we did meet
2 with Mr. Williams and that meeting included all of the
3 township supervisors, Mr. Van Dommelen. I believe Barry
4 Parks, the sewage enforcement officer, and myself.

5 And at that time we basically explained to Mr.
6 Williams the township's position, where the township was
7 coming from and we charted a course to resolve this. It was
8 our hope and our goal to have it resolved by the end of the
9 year. And rather than litigate our equity complaint, we
10 simply tried to take whatever steps necessary to resolve
11 this short of any litigation.

12 Q But back to my original question -- I'm just
13 going to go back to the very beginning. My question -- my
14 first question was whether or not you've ever had an appeal
15 on a denial of a building permit application with respect to
16 any of the townships or boroughs or other local governments
17 that you represent.

18 A Well, we had one with Mr. Corneal through
19 Attorney Williams here.

20 Q So it's your testimony that the meeting that
21 you had in the courthouse in connection with the preliminary
22 injunction hearing was the appeal of the building permit
23 application?

24 A Absolutely not.

25 Q What's the --

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1 with Mr. Corneal's appeal?

2 A The answer is no. And the reason for that is
3 by an agreement with Mr. Williams we decided to forego the
4 hearing and address the issues to see if we could resolve
5 them amicably.

6 Q Is it your understanding that Mr. Williams was
7 waiving the right to a hearing on the denial of the building
8 permit application?

9 A I don't know if that was actually ever
10 discussed.

11 Q Was there anything in writing about that?

12 A No.

13 Q You're saying that in a telephone call Mr.
14 Williams agreed on behalf of Mr. Corneal that you wouldn't
15 have the hearing?

16 A No, that's not what I said at all.

17 Q Well, I'm having a hard time understanding --

18 A Well, what I -- what I said was that -- what I
19 proposed to Mr. Williams was instead of going through the
20 hearing on this denial, we get to the heart of the matter
21 and see if we can resolve the issues. He agreed to do that.

22 Q Well, for the record, I'll ask you to look at
23 what we'll mark as Newton Exhibit 14.

24 (Letter dated 11/10/00 produced and marked as
25 Newton Exhibit No. 14.)

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| <p style="text-align: right;">122</p> <p>1 BY MS. MONTGOMERY:</p> <p>2 Q Now, this is a November 10, 2000 appeal letter</p> <p>3 from Terry Williams, correct?</p> <p>4 A Yes.</p> <p>5 Q Have you seen this in the past?</p> <p>6 A I believe I have.</p> <p>7 Q Did the township supervisors forward this to</p> <p>8 you?</p> <p>9 A Yes, I think so.</p> <p>10 Q Did you call Mr. Williams in connection with</p> <p>11 this appeal on behalf of the supervisors?</p> <p>12 A I believe so, yes.</p> <p>13 Q When did you call him?</p> <p>14 A Well, shortly after the township had received</p> <p>15 this letter, I believe I contacted Mr. Williams and at that</p> <p>16 time I suggested that we sit down -- when I say we, I mean</p> <p>17 the township and Mr. Williams, to look at these issues and</p> <p>18 attempt to resolve them, and in fact that's what we did. We</p> <p>19 met the same day that the motion for preliminary injunction</p> <p>20 was scheduled at the Huntingdon County Courthouse.</p> <p>21 Q And that preliminary injunction has not been</p> <p>22 resolved one way or the other yet, correct?</p> <p>23 A That's correct.</p> <p>24 Q So it's pending?</p> <p>25 A Well, I think it's probably mute at this</p> | <p style="text-align: right;">124</p> <p>1 what you're saying?</p> <p>2 A Yes, that's correct.</p> <p>3 Q And what does the township intend to do with</p> <p>4 that information?</p> <p>5 A Forward them on to the Department of</p> <p>6 Environmental Protection.</p> <p>7 Q Well, as I understand, the preliminary</p> <p>8 injunction hearing was -- and I'm, of course, not a party to</p> <p>9 it and I'm not that familiar with it, but the preliminary</p> <p>10 injunction motion that was filed was designed to stop Mr.</p> <p>11 Corneal from building his house, correct?</p> <p>12 A Yes, the township had received a number of</p> <p>13 complaints from other residents concerning this construction</p> <p>14 and the fact that Mr. Corneal was building without a</p> <p>15 building permit.</p> <p>16 Q What other residents were those?</p> <p>17 A I don't know. This is what I'm being told</p> <p>18 from the township.</p> <p>19 Q Did you draft the complaint for the township?</p> <p>20 A Yes, I did.</p> <p>21 Q You didn't ask them who complained to them</p> <p>22 about Mr. Corneal building?</p> <p>23 A No, and it really wouldn't matter who</p> <p>24 complained. No one would have had to have complained if</p> <p>25 there was a violation.</p> |
| <p style="text-align: right;">123</p> <p>1 point. I believe Mr. Corneal has completed his</p> <p>2 construction. I'm happy to report that as of the township's</p> <p>3 June meeting, after hearing the presentation from Mr. Bowes,</p> <p>4 it looks like everything is going to be fine with respect to</p> <p>5 sewage modules.</p> <p>6 Mr. Bowes on site indicated to us in our May</p> <p>7 18th meeting that what had previously been proposed were not</p> <p>8 acceptable. Those sites have been destroyed and I believe</p> <p>9 that they were too close to the road that was constructed,</p> <p>10 but I think everything is basically on track to be resolved.</p> <p>11 Q When was this June meeting?</p> <p>12 A The first Monday in June.</p> <p>13 Q Was this a public meeting?</p> <p>14 A This is the township's June meeting, yes.</p> <p>15 Q The township's June meeting?</p> <p>16 A Yes.</p> <p>17 Q Mr. Bowes is who? Could you identify him for</p> <p>18 the record?</p> <p>19 A Mr. Bowes is a sewage enforcement officer that</p> <p>20 has been retained by Mr. Corneal through Terry Williams to</p> <p>21 do the design for the sewage systems that are going to go</p> <p>22 in. And I believe that he is going to design -- I think</p> <p>23 it's a newer technology called micromounds.</p> <p>24 Q So you're pleased to report that Mr. Bowes has</p> <p>25 found that the sewage modules are now satisfactory; is that</p> | <p style="text-align: right;">125</p> <p>1 Q It might matter for this lawsuit.</p> <p>2 A It could.</p> <p>3 Q But the appeal that Mr. Williams sent to you</p> <p>4 -- or sent to the township, I'm sorry, on November 10, 2000</p> <p>5 concerned the denial of all his applications, correct?</p> <p>6 A Building permit applications.</p> <p>7 Q Exactly.</p> <p>8 A Yes.</p> <p>9 Q The preliminary injunction was designed to get</p> <p>10 -- for Mr. Corneal's house primarily, correct?</p> <p>11 A No, it was every -- any and all construction.</p> <p>12 I don't believe the township knew actually what was being</p> <p>13 constructed. I think there are no trespassing signs that</p> <p>14 are posted. I think the township's knowledge came from, you</p> <p>15 know, construction vehicles going in and out and reports of</p> <p>16 others.</p> <p>17 Q Well, Mr. Corneal's building applications say</p> <p>18 what he was trying to construct, don't they?</p> <p>19 A Sure.</p> <p>20 Q So if Mr. Corneal didn't need sewage for his</p> <p>21 art studio and didn't need sewage for his garage, would</p> <p>22 there have been any grounds for him to have been denied a</p> <p>23 building application -- a building permit?</p> <p>24 A I'll stand on what was set forth in the letter</p> <p>25 under Mr. Van Dommelen's signature.</p> |

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1 Q Okay. What date was the preliminary
2 injunction hearing scheduled to be held?
3 A **I don't know. I don't recall.**
4 Q Did you at the meeting that was held in the
5 courthouse which you say was held on the date that the
6 preliminary injunction hearing --
7 A **Yes.**
8 Q -- had been scheduled, did you discuss the
9 appeal of the denial of the building permit application
10 specifically?
11 A **We did not. We instead tried to set forth a**
12 **plan where we could resolve all of these issues to get them**
13 **done.**
14 Q Well, let me ask you this: By the date of the
15 meeting in the courthouse had you received -- are you sure
16 that you had received the appeal on the building permit --
17 A **I'm not sure. It may have been prior to**
18 **that. I don't know. But there was some reason that I was**
19 **in touch with Mr. Williams and -- either he called me or I**
20 **called him about this appeal and the gist of our**
21 **conversation was let's sit down and see if we can work it**
22 **out.**
23 Q I'm going to show you a document that we'll
24 mark as Newton Exhibit 15.
25 (Invoice dated 8/4/00 produced and marked as

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1 Newton Exhibit No. 15.)
2 BY MS. MONTGOMERY:
3 Q Mr. Newton, do you recognize this document?
4 A **Yes.**
5 Q Is this a copy of an invoice that you sent to
6 the supervisors for services rendered?
7 A **It is.**
8 Q So this was on August 4, 2000?
9 A **Right.**
10 Q Is it fair to assume that anything you had
11 done up to and including August 4, 2000 would be listed on
12 this invoice back to the time of your last invoice?
13 A **Not necessarily.**
14 Q Why is that?
15 A **Well, as I indicated to you, I attempt to**
16 **reconstruct some of these bills and often I miss things and**
17 **sometimes I bill based upon when a project is over. So I**
18 **wouldn't necessarily do it on a chronological basis but on**
19 **what's done.**
20 Q Well, let's look at Number 4 here, meeting
21 with supervisors on July 6, 2000, re: Corneal lawsuit.
22 A **Yes.**
23 Q Now, was that the meeting that you had with
24 the supervisors without the presence of Mr. Sherr?
25 A **Yes, I believe so.**

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1 Q What about the meeting with the supervisors on
2 July 13, 2000?
3 A **That may have been with Mr. Sherr.**
4 Q So it was one or the other?
5 A **I'm pretty sure -- I'm sure it wasn't the**
6 **first one. I think it might have been the second one.**
7 Q How long was that meeting, do you recall?
8 A **I don't recall.**
9 Q Now, I see a reference to a letter to Ann
10 Wirth dated May 8, 2000, re: David Corneal. That's
11 Number 2.
12 A **Yeah, I think that would be probably the**
13 **transmittal letters of his letters to me -- one letter dated**
14 **May 5th and a copy of Mr. Van Dommelen's letter.**
15 Q So let me just ask you this: You have
16 indicated that you bill them at \$60 an hour, right?
17 A **Approximately, yes.**
18 Q So at \$25 an hour it would have taken you
19 nearly a half hour to draft this letter, correct?
20 A **Well, not necessarily, no. I mean --**
21 Q I'm just trying to really --
22 A **That is -- you notice here I don't have an**
23 **hourly rate down here, you know. It's just what I feel was**
24 **appropriate for the circumstances.**
25 Q I'm just trying to understand whether there

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1 exists another letter other than some transmittal letters
2 since this was --
3 A **I don't believe so.**
4 Q Do you save copies of all the letters that you
5 -- correspondence that you send to the supervisors in
6 connection with --
7 A **Generally, yes.**
8 Q I see here there's a reference to a meeting
9 with the supervisors in May 2000 regarding David Corneal,
10 correct?
11 A **New Enterprise Stone and Lime Company and**
12 **David Corneal. As I indicated to you previously, I think**
13 **the purpose of the meeting was to discuss this New**
14 **Enterprise problem and Mr. Corneal -- the subject of Mr.**
15 **Corneal came up at that meeting.**
16 Q Now, was this one of those workshop meetings,
17 is that what you're thinking?
18 A **That's what I testified to previously.**
19 Q Was this meeting subsequent to the time that
20 Mr. Van Dommelen had initially denied building permit
21 applications to Mr. Corneal?
22 A **No, I don't believe so.**
23 Q So you think -- as far as Number 2 goes, do
24 you think you have copies of the letters to Ann Wirth, re:
25 David Corneal?

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1 A I probably do.
 2 Q Now, you have preparation of draft response to
 3 the Corneal's complaint, correct?
 4 A Yes.
 5 Q Did you save copies of your draft responses?
 6 A This would be a federal lawsuit. I believe I
 7 did, yes.
 8 Q And then there's reference to a letter to Ann
 9 Wirth dated August 4, 2000. Do you know whether that
 10 involved David Corneal?
 11 A It may have been a transmittal letter. I seem
 12 to recall there was a letter that was dated August 3rd. I'm
 13 not sure.
 14 Q Do you know when the last time you sent an
 15 invoice to the township prior to this August 4th --
 16 A Prior to August 4th, no, I don't.
 17 Q You have no recollection at all?
 18 A No.
 19 Q Would you have that in your records?
 20 A Probably, yes.
 21 Q Let me ask you this: I know you don't have a
 22 date for your meeting with the supervisors in May, right?
 23 A (Witness nods head affirmatively.)
 24 Q Which is Number 3 --
 25 A Yes.

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1 Q -- regarding David Corneal. But you did
 2 testify that that was I think a workshop meeting. Was that
 3 prior --
 4 A That's my recollection, yes.
 5 Q So it would have been prior to their monthly
 6 meeting, correct? Isn't that --
 7 A No.
 8 Q -- when they have their workshop meetings?
 9 A Not necessarily, no.
 10 Q Do you know whether it was before or after the
 11 May 5 letter that was sent to you by Mr. Corneal from --
 12 regarding Mr. Van Dommelen's refusal to give him building
 13 permit applications?
 14 A I don't know.
 15 Q Was the workshop meeting held in the afternoon
 16 or in the evening?
 17 A I would say afternoon.
 18 Q Late afternoon, early evening, what?
 19 A Well, one of the -- I just -- I would say late
 20 afternoon -- in the afternoon. I'm not sure exactly when.
 21 Q And you had traveled out to the township
 22 office, right, to do that?
 23 A That's correct.
 24 Q So do you remember whether it was getting to
 25 be dusk or was it dark or anything driving out to that

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1 meeting?
 2 A I don't believe so. I think it was daylight.
 3 Q Mr. Newton, we've already made this a copy of
 4 the record and it's so large I'm not going to do that again,
 5 but I'm going to ask you to look at the subdivision and land
 6 development ordinance and identify it for me, if you can,
 7 please.
 8 A It appears to be the Jackson Township
 9 subdivision ordinance.
 10 Q Can you look on page 71 of the ordinance.
 11 A Yes.
 12 Q Do you see where it's dated July 7, 2000?
 13 A Yes.
 14 Q Did you become aware prior to this moment that
 15 this was dated July 7, 2000?
 16 A No, I think that's a mistake.
 17 Q You think it's just the wrong date?
 18 A Yes.
 19 Q What makes you think that?
 20 A Because the township meeting was on July 8th.
 21 Q July 10, correct?
 22 A Well -- let me see. Whenever the first --
 23 whenever the meeting was -- I thought it was the 8th, but
 24 maybe it was -- Monday.
 25 Q The first Monday of the month --

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1 A Yes.
 2 Q -- that's not a holiday?
 3 A Is that the 10th?
 4 Q I think it was, but your counsel is checking
 5 her calendar.
 6 A It would have been the 10th.
 7 Q Now, you weren't at that meeting, though, you
 8 testified, correct?
 9 A No, I wasn't.
 10 Q Do you know whether this subdivision and land
 11 development ordinance was signed at the meeting, prior to or
 12 after?
 13 A I wasn't there. My sense is it would have
 14 been signed at the meeting.
 15 Q I'm going to show you what we've marked
 16 previously in depositions. Again, I don't think I will make
 17 these additional copies for the record, but it's the
 18 Huntingdon County Planning Commission letter to Ann Wirth
 19 dated February 24, 2000.
 20 A Okay.
 21 Q Have you seen this letter in the past?
 22 A I believe I have.
 23 Q What makes you believe you have?
 24 A Because I believe that Ann would have maybe
 25 faxed me a copy of it or mailed it to me.

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1 Q Did you review it at the time, do you know?
 2 A **I probably looked at it, yes.**
 3 Q Did you have any discussions with the township
 4 about what they needed to do in order to get the subdivision
 5 proposal in order?
 6 A **What do you mean?**
 7 Q Well, this letter I believe indicates that
 8 there was going to be a problem or two with the proposed
 9 subdivision from Mr. Corneal, correct?
 10 A **Yes.**
 11 Q Did you have any discussion with the township
 12 or any of its officials or its secretary about Mr. Corneal's
 13 subdivision after you received this letter?
 14 A **Not that I can recall.**
 15 Q Do you think you received this letter at about
 16 the time that it was written?
 17 A **I have no idea.**
 18 Q What about this April 20, 2000 letter from the
 19 Huntingdon County Planning Commission which has been made
 20 part of the record in the past? Do you recall receiving a
 21 copy of that letter?
 22 A **I would say yes.**
 23 Q Why would you say yes?
 24 A **Because I believe Ann forwarded it on to me.**
 25 Q Did she forward it to you at about the time it

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1 was written?
 2 A **I would say so, but I don't recall.**
 3 Q Did you have any discussion with the township
 4 about Mr. Corneal's proposed subdivision at that time?
 5 A **Not that I can recall.**
 6 Q Now, I think you had testified earlier that
 7 when they send something to you that they anticipate
 8 whatever guidance or advice you might have for them,
 9 correct?
 10 A **That's right.**
 11 Q Did you have any advice or guidance for them
 12 in connection with this letter?
 13 A **Not that I can recall.**
 14 MS. MONTGOMERY: I'm going to take a moment
 15 here to review some notes and documents. We can take a five
 16 minute break if you want.
 17 (Break taken at 1:58 p.m. until 2:23 p.m.)
 18 BY MS. MONTGOMERY:
 19 Q We had talked a moment ago, Mr. Newton -- we
 20 had talked some time ago about discussions that you might
 21 have had about Mr. Corneal's sewage planning modules. I
 22 just need to know from you whether you recall talking to Ann
 23 Wirth about Mr. Corneal's sewage planning modules?
 24 A **Yes.**
 25 Q Do you recall when that conversation took

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1 place?
 2 A **No.**
 3 Q Can you put it in some kind of estimated time
 4 frame?
 5 A **Well, I -- I remember -- and, again, this was**
 6 **either at the -- at one of the meetings that Mr. Corneal**
 7 **attended. I believe Mrs. Wirth informed me that Mr. Corneal**
 8 **put the sewage modules on the table where the supervisors**
 9 **were sitting and then by the end of the meeting had taken**
 10 **them away. So at least at the conclusion of that meeting,**
 11 **even if the supervisors wanted to forward those modules on**
 12 **to DEP, they didn't have them to forward them. I do**
 13 **remember that discussion specifically.**
 14 Q That's what Mrs. Wirth told you?
 15 A **That's what Mrs. Wirth told me.**
 16 Q She told you that around the time of the
 17 meeting that Mr. --
 18 A **I can only assume so. I don't recall, but I**
 19 **would think that would be correct.**
 20 Q So at that time did she discuss with you the
 21 fact that the supervisors had indicated to Mr. Corneal that
 22 he couldn't build because he would have to subdivide? In
 23 that same conversation did you have that discussion?
 24 A **I don't recall. I do know that there was an**
 25 **issue concerning -- that in fact there was already an older**

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1 dwelling on the premises and if he was going to put another
 2 dwelling on that contained sewage it was a subdivision for
 3 DEP purposes.
 4 Q You had said that the Altoona division of DEP
 5 or --
 6 A **That would be Joe Rouzer.**
 7 Q Joe Rouzer?
 8 A **Yes, uh-huh.**
 9 Q From the Altoona regional office?
 10 A **Yes.**
 11 Q And that's his interpretation?
 12 A **Yes.**
 13 Q Has he been at the Altoona DEP regional office
 14 for many, many years?
 15 A **Yes. I'd say in excess of 20 years.**
 16 Q But you're aware of at least one other
 17 regional office of DEP that doesn't interpret the law that
 18 way?
 19 A **I became aware of that on or about May 18th**
 20 **from Tom Bowes because we had a discussion on Mr. Corneal's**
 21 **property about this issue. And Mr. Rouzer was there and**
 22 **explained to Mr. Bowes that the way they have always**
 23 **interpreted that would be just the way that the townships in**
 24 **Jackson County have followed.**
 25 MR. SHERR: If I may, you just said Jackson

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1 County.
2 THE WITNESS: I meant -- Jackson Township I
3 thought I said.
4 BY MS. MONTGOMERY:
5 Q How long was the conversation that you had
6 with Mrs. Wirth in which she told you that Mr. Corneal had
7 presented some sewage planning modules but taken them back?
8 A **It wasn't very long. I don't recall.**
9 Q Do you think it was more than 10 minutes?
10 A **No, less.**
11 Q Did she call you?
12 A **Yes.**
13 Q Was she reporting to you on the events of that
14 meeting?
15 A **I would say yes.**
16 Q Was she asking you for advice?
17 A **I don't think specifically asking me for**
18 **advice but informing me of what went on.**
19 Q So she told you that he had brought the sewage
20 modules and taken them away, but you don't recall if she
21 told you that Mr. Corneal was informed at that meeting that
22 his subdivision wouldn't be approved?
23 A **Again, that's all I can recall from the**
24 **conversation.**
25 Q Do you think it was in very close -- it was in

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1 close proximity to that meeting so that would be like within
2 a week or within a couple of days or something?
3 A **As to when the phone conversation occurred?**
4 Q Exactly.
5 A **I would say within a week, sure.**
6 Q Did you ever have any discussion with Mr.
7 Rouzer from DEP during the year 2000 about this subdivision
8 issue and the erection of the second dwelling on a property
9 making it a subdivision?
10 A **I don't believe in the year 2000. Certainly**
11 **in 2001.**
12 Q But not during the year 2000?
13 A **Not that I can recall.**
14 Q Did you ever discuss Mr. Corneal's property
15 with Mr. Rouzer?
16 A **Yes.**
17 Q When was that?
18 A **May 18th we met on site.**
19 Q Of this year?
20 A **Yes.**
21 Q What about in the past?
22 A **I believe there was another time -- there was**
23 **another time in 2001 and this was after our SEO had**
24 **determined that the initial sites had been destroyed and**
25 **were no longer usable and I believe I talked to Mr. Rouzer**

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1 **about that.**
2 Q Now, that was in -- that was prior to your May
3 2001 site visit?
4 A **Yes.**
5 Q When you went to the May 2001 site visit, did
6 you observe the various sites?
7 A **Yes.**
8 Q Were you aware that other than the two sites
9 then that they had said had been destroyed that there were a
10 number of other previously approved sites?
11 A **What I remember is Mr. Bowes agreeing with Mr.**
12 **Parks that the sites that were shown previously were**
13 **unacceptable. I believe he agreed with that.**
14 Q But do you -- you said you went on the
15 property?
16 A **I did.**
17 Q And you observed, for example, an apartment?
18 A **Yes.**
19 Q Did you also observe a number of other septic
20 sites?
21 A **We -- as I recall, there were three different**
22 **pits that we walked to. I believe there were three.**
23 Q You walked to three of them. Was the other
24 one satisfactory, do you know, the third --
25 A **Well, these were the ones -- these were new.**

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1 **These were ones that were recently dug.**
2 Q What about the ones that -- are you aware that
3 Barry Parks approved sewage modules for Mr. Corneal's
4 property --
5 A **Yes.**
6 Q -- in the year 2000?
7 A **Yes.**
8 Q Are you aware that later two of them were --
9 after all the disapprovals and all of that two of them were
10 said to be now unsatisfactory because something had been
11 driven over them, right?
12 A **Yes.**
13 Q Were you aware that the other sites that he
14 had approved remained satisfactory?
15 A **I was not aware. I'm not saying that's not**
16 **the case, but that -- those sites I don't believe were**
17 **looked at. I think we looked at the newer holes that were**
18 **dug.**
19 Q Around the time that Mr. Parks approved the
20 sewage modules presented by Mr. Corneal, did you receive any
21 contact from the township about those sewage modules?
22 A **Not that I recall.**
23 Q Are you aware that despite the fact that Mr.
24 Parks had approved them that the township then said no,
25 disapprove them?

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| | |
|---|---|
| <p style="text-align: right;">142</p> <p>1 A Well, then we get into the issue they really 2 didn't have them to approve. As I understand from Mrs. 3 Wirth, Mr. Corneal took them with him. 4 Q Did she tell you in fact that he was told to 5 take them back because they wouldn't review them? 6 A No, she didn't tell me that. 7 Q Did the supervisors seek counsel from you 8 about filing the lawsuit against Mr. Corneal that was filed 9 in Huntingdon County? 10 A Yes. 11 Q You actually drafted that -- 12 A Yes. 13 Q -- correct? When did they first seek your 14 counsel about that, filing a lawsuit in Huntingdon County 15 against Mr. Corneal? 16 A Probably towards -- the letter that we 17 reviewed I believe is dated July 28th of 2000. So it would 18 have been around that time. 19 Q When did you actually file that lawsuit? 20 A I believe it was in October. 21 Q And what happened between July 28th and 22 October in connection with the filing of that lawsuit? 23 A Be more specific. 24 Q Well, why did you wait until October to file 25 that lawsuit?</p> | <p style="text-align: right;">144</p> <p>1 Q So not all of them, a selection, I suppose, 2 correct? 3 A Yes. 4 Q Well, we haven't had an opportunity to review 5 all those documents. Some of them, as many of them as we've 6 been able to make time for. Did the supervisors ever 7 contact you about their obligation to produce documents in 8 this lawsuit? 9 A No. 10 Q Well, I'll represent to you that we have not 11 found so far that letter. 12 A I believe I -- I could be wrong on the date, 13 but I think I saw it this morning. 14 Q Well, we'll see if we find it. I think that 15 you had testified that there were a number of revisions to 16 the land development ordinance as we went -- there were a 17 number of revisions to the subdivision ordinance before it 18 was actually passed. 19 A (Witness nods head affirmatively.) 20 Q Do you know whether or not each of those 21 iterations of the proposed subdivision ordinance were made 22 available for the public? 23 A I don't know. Anyone who attended a township 24 meeting certainly would have access to that. 25 Q Didn't Mr. Corneal ask you for a copy of the</p> |
| <p style="text-align: right;">143</p> <p>1 A I think there was a -- I think there was 2 another letter that we had written -- I think that was, you 3 know, an August letter that I believe we have reviewed. 4 Q In this deposition? 5 A I think so. I believe I wrote a letter in 6 August. Maybe we haven't reviewed it, but it was just, I 7 guess, until October when the complaint was ready and we 8 filed it hoping that we could resolve this without filing 9 it. 10 Q You think you wrote another letter to Mr. and 11 Mrs. Corneal in August? 12 A I think I wrote a letter in August. 13 Q After the July 28th letter? 14 A Yes. 15 Q Would you have a copy of that in your files? 16 A I believe I did and I believe it's in the 17 documents that were copied. 18 Q From the township you mean? 19 A Yes. 20 Q Have you had an opportunity to review the 21 documents that were -- 22 A Yes. 23 Q -- copied? When did you have that 24 opportunity? 25 A This morning.</p> | <p style="text-align: right;">145</p> <p>1 proposed ordinance at one time? 2 A He may have and -- I'd have to refer to that 3 August letter. I know he was ultimately sent a copy. 4 Q The August letter that you're referring to is 5 not in addition to -- it is in addition to this July 28th 6 letter that you're referring to? 7 A Yes, that's what my recollection is. 8 Q But you -- 9 A I think the supervisors asked me in August to 10 write to him and say, look, get a building permit and then I 11 think there was a follow-up letter in August. 12 Q But in any event, I think I just asked you 13 whether or not Mr. Corneal asked you for a copy of the 14 subdivision ordinance and you said he may have, correct? 15 A He may have. 16 Q Do you know whether or not you sent him a copy 17 of it? 18 A I may have. If I did, it would be referenced 19 in this August 28 letter. 20 Q You think it's an August 28th letter or do you 21 think it's a July 28th? 22 A Well, I -- it's July -- the August letter, 23 whenever the date was in August. 24 Q Did you ever have occasion to talk to the 25 supervisors individually about this issue of Mr. Corneal's</p> |

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| <p style="text-align: right;">146</p> <p>1 property?</p> <p>2 A One-on-one?</p> <p>3 Q Yes.</p> <p>4 A No, not that I can recall.</p> <p>5 Q Mr. Wilson has never called you directly to</p> <p>6 talk about it?</p> <p>7 A If Mr. Wilson called me, it would be in the</p> <p>8 context of we've got to get something moving on the lawsuit</p> <p>9 because people in the township were upset that nothing was</p> <p>10 being done, etcetera. He may have called me. If he did, I</p> <p>11 believe it was in that context.</p> <p>12 Q Well, going back briefly to your August 4,</p> <p>13 2000 invoice to the township, you would have copies of each</p> <p>14 of the documents referenced in this invoice, correct, in</p> <p>15 your files?</p> <p>16 A I should have.</p> <p>17 Q Letters to --</p> <p>18 A If I don't, the township certainly has them.</p> <p>19 And if I don't, they would be in the township records.</p> <p>20 Q And would you have a copy of the additional</p> <p>21 notice of the meeting --</p> <p>22 A I should have, yes.</p> <p>23 Q The meeting where the subdivision ordinance</p> <p>24 was ultimately passed. You'd have a copy of that</p> <p>25 additional --</p> | <p style="text-align: right;">148</p> <p>1 have been sent to him at the time of Mr. Van Dommelen's</p> <p>2 letter. I think there might be a reference to enclosing</p> <p>3 that.</p> <p>4 Q I notice this August 29, 2000 letter went out</p> <p>5 and then, as you recall, we have the September -- the</p> <p>6 August 31 and September 1 application sent right back,</p> <p>7 right?</p> <p>8 A I guess so, yes.</p> <p>9 Q Those are the documents that you reviewed in</p> <p>10 this deposition, right?</p> <p>11 A Yes. I don't recall the dates, but if that</p> <p>12 was the dates, yeah, fine.</p> <p>13 Q Well, these were Newton Exhibits 11 and 12.</p> <p>14 A Okay.</p> <p>15 Q Letters dated August 31 and September 1, 2000</p> <p>16 with building application and materials attached. So I just</p> <p>17 want to ask you: Having sent the applications to him, did</p> <p>18 you not follow up to see whether or not the applications had</p> <p>19 been filled out and sent back?</p> <p>20 A No. At least as of the date that I wrote the</p> <p>21 letter I wasn't aware that they had been.</p> <p>22 Q You mean as of the date that you wrote the</p> <p>23 letter for Van Dommelen's signature, is that what you</p> <p>24 mean?</p> <p>25 A No, this is dated August 29th.</p> |
| <p style="text-align: right;">147</p> <p>1 A My recollection is on the Municipalities</p> <p>2 Planning Code notice means publication two times in two</p> <p>3 consecutive weeks.</p> <p>4 Q Exactly.</p> <p>5 A Yeah.</p> <p>6 MS. MONTGOMERY: Would you mark that as Newton</p> <p>7 Exhibit 16.</p> <p>8 (Letter dated 8/29/00 produced and marked as</p> <p>9 Newton Exhibit No. 16.)</p> <p>10 THE WITNESS: I think that's the letter I'm</p> <p>11 referring to.</p> <p>12 BY MS. MONTGOMERY:</p> <p>13 Q This is the August 29, 2000 letter?</p> <p>14 A Yes, um-hum.</p> <p>15 Q And in this letter it indicates that you in</p> <p>16 fact did --</p> <p>17 A Yes.</p> <p>18 Q -- send Mr. Corneal the building permit</p> <p>19 application --</p> <p>20 A Yes.</p> <p>21 Q -- that he had been trying to get?</p> <p>22 A Yes.</p> <p>23 Q So they were sent then under cover of a letter</p> <p>24 dated August 29, 2000?</p> <p>25 A Yes. I think the subdivision ordinance might</p> | <p style="text-align: right;">149</p> <p>1 Q Right.</p> <p>2 A And there's a letter from Mr. Corneal which is</p> <p>3 Exhibit 11 --</p> <p>4 Q Right.</p> <p>5 A -- enclosing the building permit</p> <p>6 applications --</p> <p>7 Q Right.</p> <p>8 A -- along with the check and that's dated</p> <p>9 August 31st.</p> <p>10 Q Right.</p> <p>11 A I can only assume that he probably had the</p> <p>12 building permit application already.</p> <p>13 Q Why would you assume that?</p> <p>14 A Well, if my letter is dated the 29th, you</p> <p>15 know, I can only assume by the time the mail gets from</p> <p>16 Huntingdon to State College -- well, he might have done it</p> <p>17 right away. So it's possible, yeah. I don't know.</p> <p>18 MS. MONTGOMERY: Well, I don't think I have</p> <p>19 any other questions for you, Mr. Newton, pending a review of</p> <p>20 the documents that we only recently received from the</p> <p>21 township in which case we might need to call you back.</p> <p>22 THE WITNESS: How about in my county?</p> <p>23 MS. MONTGOMERY: I'm sorry?</p> <p>24 THE WITNESS: Love to have you come to</p> <p>25 Huntingdon County.</p> |

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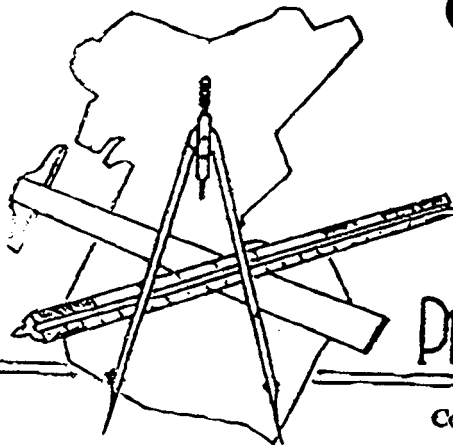
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1 MS. MALADY: We've been there.
 2 MS. MONTGOMERY: We've been there.
 3 THE WITNESS: Thank you.
 4 MS. MONTGOMERY: It's really quite nice.
 5 Thank you.
 6 (The deposition was concluded at 2:46 p.m.)
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1
 2 COUNTY OF DAUPHIN :
 : SS
 3 COMMONWEALTH OF PENNSYLVANIA :
 4 I, Teresa K. Bear, Reporter-Notary Public,
 5 authorized to administer oaths within and for the
 6 Commonwealth of Pennsylvania and take depositions in the
 7 trial of causes, do hereby certify that the foregoing is the
 8 testimony of LARRY L. NEWTON.
 9 I further certify that before the taking of
 10 said deposition, the witness was duly sworn; that the
 11 questions and answers were taken down stenographically by
 12 the said Teresa K. Bear, a Reporter-Notary Public, approved
 13 and agreed to, and afterwards reduced to typewriting under
 14 the direction of the said Reporter.
 15 I further certify that the proceedings and
 16 evidence are contained fully and accurately to the best of
 17 my ability in the notes taken by me on the within
 18 deposition, and that this copy is a correct transcript of
 19 the same.
 20 In testimony whereof, I have hereunto
 21 subscribed my hand this 27th day of June, 2001.
 22
 23
 24 _____
 Teresa K. Bear, Reporter
 Notary Public
 My commission expires
 25 on April 13, 2003

Exhibit 13

ENS
Plan -

HUNTINGDON COUNTY

PLANNING COMMISSION

(814) 643-5091

Court House - Huntingdon, Pennsylvania 16652

February 24, 2000

Mrs. Ann L. Wirth
Jackson Township Secretary
R D 1, Box 390
Petersburg, PA 16669

RE: David and Sandra Corneal Minor Subdivision

Dear Mrs. Wirth:

The Huntingdon County Planning Commission has reviewed the above referenced proposal to subdivide a property containing 94.67 acres into three lots. Lot 2 (the residue) contains 64.12 acres; Lot 3 contains 4.75 acres and Lot 4 contains 25.80 acres. Lot 1 was previously subdivided and is not included in this proposal. The property is located on the east side of Saw Mill Road (T-527) in Jackson Township. It is our understanding that Jackson Township has placed a moratorium on new subdivisions pending the adoption of a Subdivision and Land Development Ordinance.

The staff of the Planning Commission offers the following comments for your consideration:

1. The proposal is consistent with the draft Huntingdon County Comprehensive Plan. The land use proposed by the Plan for this area is Low Intensity Residential Use.
2. There are several physical limitations evident at the location of this proposal. Steep slopes (over 15%) can be found near the eastern boundary of the property in this proposal. No building construction should take place in steep slope areas. The soil types At, Atkins Silt Loam, and Ph, Philo and Basher Silt Loam, exist along Laurel Run, which runs through all the proposed lots. These are hydric soils and are typically found in wetland areas and near streams. The proposed house, studio, and sewage system for Lot 2 are within these soil types.

Blazosky Associates, Inc conducted a Wetlands Investigation of the project area for the developer. Further investigation should be done prior to approval to identify if wetland areas exist at the proposed construction site due to the snow cover during the



EXHIBIT

Wirth II

TKB 5-7-01

investigation and because maps submitted with the investigation did not identify the areas studied. No construction should take place in wetlands areas. No floodplains exist in the area of this proposal.

3. The Jackson Township Supervisors are in the process of adopting a Subdivision and Land Development Ordinance. The following comments are based on the draft Jackson Township Subdivision and Land Development Ordinance:

4. A new street is proposed on the plat to provide access to the lots in this development. Private streets (streets not offered for dedication to the Township) are prohibited unless they meet the design standards of the Ordinance (Section 502.A.6). This proposal would not be classified as a minor subdivision by the Ordinance. The definition of a Minor Subdivision in Section 204 is any subdivision containing not more than 4 lots fronting an existing street.

5. The proposal must comply with all requirements of Section 402, Preliminary Plan, and Section 403, Final Plan.

6. The following information required by Section 402 does not appear on the plat submitted:

Existing contour lines (Section 402.A.9).

Location and width of all streets, easements, right-of-ways, with a statement of any conditions governing their use (Section 402.A.14.a).

Building Setback lines along each street (Section 402.A.14.b). Building Setbacks are as follows: 40' from all right-of-way lines, 15' from property lines (Section 504.C 4,5).

Stormwater management information (Section 402.A.17.a through c).

Supplementary data as applicable (Section 402.B).

Section 403 requirements A through B.

7. The proposed street must also comply with Section 502 of the Ordinance. This section contains the required widths and specifications for a minor street. The Huntingdon County Planning Commission proposed a private driveway standard to Jackson Township in comments of the draft Ordinance on February 4, 2000. This standard, if adopted, in the Ordinance would provide a minimum standard for streets of this type.

8. A stream crossing will be necessary for the street to provide access to the lots as proposed. The developer indicated that he acquired the permit for this crossing. A copy of this permit must be submitted with other data to the Township prior to approval.

9. A sewage easement is proposed for Lot 3 to use a portion of Lot 2 for the installation of a sewage system. The easement should be described on the submitted plat (bearings, distances, acreage) so that a description can be included in each lot deed affected.

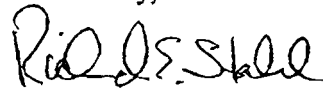
10. The developer's surveyor indicated on the plat that a boundary discrepancy exists between the residual lot (Lot 2) and the adjacent property owner. The Township's Solicitor may want to identify if any legal issues exist if the plan is approved without this boundary issue being resolved.

11. A DEP Sewage Facilities Planning Module Component 1 was submitted as part of this proposal. This module and accompanying data indicate soils suitable for on-lot sewage disposal.

12. The Huntingdon County Planning Commission recommends disapproval of this proposal due to both the moratorium and the above comments.

Please contact this office with any questions concerning these comments. As always, the local municipality is encouraged to carefully review the subdivision/sewage module for compliance with Township and State requirements.

Sincerely,



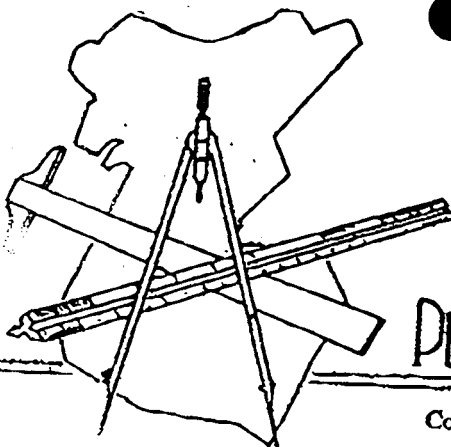
Richard E. Stahl
Planning Director

DBY
File GC, Sub, Mtg, C
Pc. Corneal
Simpson
Rouzer

Exhibit 14

HUNTINGDON COUNTY

(814) 643-5091



PLANNING COMMISSION

Court House - Huntingdon, Pennsylvania 16652

April 20, 2000

Mrs. Ann L. Wirth
 Jackson Township Secretary
 R.D. 1, Box 390
 Petersburg, PA 16669

RE: David B. and Sandra Y. Corneal Minor Subdivision

Dear Mrs. Wirth:

The Huntingdon County Planning Commission has reviewed the above referenced proposal to subdivide a property containing 94.67 acres into two lots. A proposal was submitted at the March 22, 2000 Planning Commission meeting for this property as a three lot subdivision. This proposal is a resubmission. Lot 2 (the residue) contains 68.87 acres and Lot 3 contains 25.80 acres. Lot 1 was previously subdivided and is not included in this proposal. The property in this proposal is located on the east side of Saw Mill Road (T-527) in Jackson Township. It is our understanding that Jackson Township has placed a moratorium on new subdivisions pending the adoption of a Subdivision and Land Development Ordinance.

The staff of the Planning Commission offers the following comments for your consideration:

1. The proposal is consistent with the draft Huntingdon County Comprehensive Plan. The land use proposed by the Plan for this area is Low Intensity Residential Use.
2. There are several physical limitations evident at the location of this proposal. Steep slopes (over 15%) can be found near the eastern boundary of the property in this proposal. No building construction should take place in these steep slope areas. The soil types At, Atkins Silt Loam, and Ph, Philo and Basher Silt Loam, exist along Laurel Run, which runs through the proposed lots. These are hydric soils and are typically found in wetland areas and near streams. The proposed house, studio, and sewage system for Lot 2 are within these soil types.



EXHIBIT

Wirth 10

TKB 5-17-01

Blazosky Associates, Inc conducted a Wetlands Investigation of the project area for the developer. A detailed map and study data identifying the investigation area was submitted and indicates that no wetlands are present at the location of the lots in this proposal. The Huntingdon County Conservation District has noted that widening of the existing lane to access the new dwelling on Lot 2 may impact potential wetland areas. Road improvements should be limited to existing cartway widths.

3. The Jackson Township Supervisors are in the process of adopting a Subdivision and Land Development Ordinance. The proposal appears to be in compliance with the regulations of the draft ordinance. The building setbacks shown on the plat are in compliance with the draft ordinance. The title certificate on the plat should be completed and notarized prior to recording of the plat.

4. A stream crossing will be necessary for the driveway for Lot 2 to provide access to the proposed structures shown on the plat. The developer indicated that he acquired the permit for this crossing. A copy of this permit must be submitted with other data to the Township prior to approval.

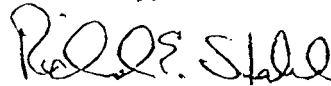
9. The developer's surveyor indicated on the plat that a boundary discrepancy exists between the residual lot (Lot 2) and the adjacent property owner. The Municipal Solicitor may want to identify the existence of any legal issues if the plan is approved without resolution of these boundary issues.

10. A DEP Sewage Facilities Planning Module Component 1 was submitted as part of this proposal. This module and accompanying data indicate soils suitable for on-lot sewage disposal.

11. The Huntingdon County Planning Commission recommends conditional approval of this proposal pending adoption of the Subdivision and Land Development Ordinance.

Please contact this office with any questions concerning these comments. As always, the local municipality is encouraged to carefully review the subdivision/sewage module for compliance with Township and State requirements.

Sincerely,



Richard E. Stahl
Planning Director

DBY
File: GC, Sub, Mtg, C
Pc: Corneal
Simpson
Rouzer

Exhibit 15

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AN ORDINANCE REQUIRING ALL PERSONS, PARTNERSHIPS, BUSINESSES AND CORPORATIONS TO OBTAIN A BUILDING PERMIT FOR THE CONSTRUCTION, RECONSTRUCTION, ENLARGEMENT, ALTERATION, OR RELOCATION OF ANY BUILDING OR STRUCTURE: PROVIDING FOR THE ISSUANCE OF SUCH BUILDING PERMITS; AND PROVIDING FOR PENALTIES FOR ANY PERSONS WHO FAIL OR REFUSE TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THE ORDINANCE.

BE IT ENACTED AND ORDAINED BY the Jackson Township Supervisors, Huntingdon County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same as follows:

ARTICLE I GENERAL PROVISIONS

Section 1.00 Intent

The intent of this Ordinance is to:

- A. Promote the general health, welfare, and safety of the community.
- B. Encourage the utilization of appropriate construction practices in order to prevent or minimize flood damage in the future.
- C. Minimize danger to public health by protecting water supply and natural drainage.
- D. Reduce financial burdens imposed on the community, its governmental units, and its residents, by preventing excessive development in areas subject to flooding.
- E. Comply with federal and state floodplain management requirements.

Section 1.01. Applicability

- A. It shall be unlawful for any person, partnership, business, or corporation to undertake, or cause to be undertaken, any construction or development anywhere within the Township unless a Building Permit has been obtained from the Building Permit Officer.
- B. A building permit shall not be required for minor repairs to existing buildings or structures.

Section 1.02 Abrogation and Greater Restrictions

This Ordinance supersedes any other conflicting provisions which may be in effect in identified floodplain areas. However, any other Ordinance provisions shall remain in full force and effect to the extent that those provisions are more restrictive. If there is any conflict between any of the provisions of this Ordinance, the more restrictive shall apply.

Section 1.03 Severability

If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance should be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall remain in full force and effect, and for this purpose, the provisions of this Ordinance are hereby declared to be severable.

Section 1.04 Warning and Disclaimer of Liability

The degree of flood protection sought by the provisions of this Ordinance is considered reasonable for regulatory purposes and is based on acceptable engineering methods of study. Larger floods may occur. Flood heights may be increased by man-made or natural causes, such as ice jams and bridge openings restricted by debris. This Ordinance does not imply that areas outside any identified floodplain area, or that land uses permitted within such areas will be free from flooding or flood damages.

This Ordinance shall not create liability on the Part of the Township or any officer or employee thereof for any flood damages that result from reliance on this Ordinance or any administrative decision lawfully made thereunder.

ARTICLE II DEFINITIONS

Section 2.00 General

Unless specifically defined below, words and phrases used in this Ordinance shall be interpreted so as to give this Ordinance its most reasonable application.

Section 2.01 Specific Definitions

- A. Accessory use or structure - a use of structure on the same lot with, and of a nature customarily incidental and subordinate to, the principal use or structure.
- B. Building - a combination of materials to form a permanent structure having walls and a roof. Included shall be all manufactured homes and trailers to be used for human habitation.
- C. Completely dry space - a space which will remain totally dry during flooding; the structure is designed and constructed to prevent the passage of water and water vapor.
- D. Construction - the construction, reconstruction, renovation, repair, extension, expansion, alteration, or relocation of a building or structure, including the placement of manufactured homes.
- E. Development - any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, the placement of manufactured homes, streets, and other paving, utilities, filling, grading, excavation, mining, dredging, or drilling operations and the subdivision of land.
- F. Essentially dry space - a space which will remain dry during flooding, except for the passage of some water vapor or minor seepage; the structure is substantially impermeable to the passage of water.
- G. Flood - a temporary inundation of normally dry land areas.
- H. Floodplain - a relatively flat or low land area which is subject to partial or complete inundation from an adjoining or nearby stream, river, or watercourse; and/or any area subject to the unusual and rapid accumulation of surface waters from any source.
- I. Floodproofing - means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

- J. FW (Floodway Area) - the areas identified as "Floodway" in the Flood Insurance Study prepared by FEMA. The term shall also include floodway areas which have been identified in other available studies or sources of information for those floodplain areas where no floodway has been identified in the Flood Insurance Study prepared by FEMA.
- K. FF (Flood-Fringe Area) - the areas identified as "Floodway Fringe" in the Flood Insurance Study prepared by FEMA.
- L. Identified Floodplain Area - the floodplain area specifically identified in this Ordinance as being inundated by the one hundred (100) year flood. Included would be areas identified as Floodway (FW), Flood-Fringe (FF), and General Flood Plain (FA).
- M. Land Development - (i) the improvement of one lot, or two or more contiguous lots, tracts, or parcels of land for any purpose involving: (a) a group of two or more buildings, or (b) the division or allocation of land or space between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups, or other features; (ii) a subdivision of land.
- N. Lowest Floor - means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR - 60.3
- O. Minor repair - the replacement of existing work with equivalent materials for the purpose of its routine maintenance and upkeep, but not including the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the exitway requirements; nor shall minor repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil, waste, vent or similar piping, electric wiring or mechanical or

other work affecting public health or general safety.

- P. Manufactured home - a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. The term includes park trailers, travel trailers, recreational, and other similar vehicles placed on a site for more than 180 consecutive days.
- Q. Manufactured home park - a parcel (or contiguous parcels) of land which has been planned and improved for the placement of two or more manufactured homes.
- R. Obstruction - any wall, dam, wharf, embankment, levee, dike, pile abutment, projection, excavation, channel, rectification, culvert, building, fence, stockpile, refuse, fill, structure, or matter in, along, across, or projecting into any channel, watercourse, or flood-prone area, (i) which may impede, retard, or change the direction of the flow of water either in itself or by catching or collecting debris carried by such water, or (ii) which is placed where the flow of the water might carry the same downstream to the damage of life and property.
- S. One hundred year flood - a flood that, on the average, is likely to occur once every one hundred (100) years (i.e. that has a one (1) percent chance of occurring each year, although the flood may occur in any year).
- T. Person - an individual, partnership, public or private association or corporation, firm, trust, estate, municipality, governmental unit, public utility, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- U. Regulatory flood elevation - the one hundred (100) year flood elevation plus a freeboard safety factor of one and one-half (1 1/2) feet.
- V. Special permit - a special approval which is required for hospitals, nursing homes, jails, and new manufactured home parks and subdivisions, and substantial improvements to such existing parks, when such development is located in all, or a designated portion of a floodplain.

- W. Structure - anything constructed or erected on the ground, or attached to the ground including, but not limited to buildings, sheds, manufactured homes, and other similar items.
- X. Subdivision - the division or redivision of a lot, tract, or parcel of land by any means into two or more lots, tracts, parcels, or other division of land, including changes in existing lot lines for the purpose, whether immediate or future, of lease, transfer of ownership, or building, or lot development, provided however, that the division of land for agricultural purposes into parcels of more than ten (10) acres, not involving any new street or easement of access, shall be exempted.
- Y. Substantial Improvement - any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either, (a) before the improvement or repair is started, or (b) if the structure has been damaged, and is being restored, before the damage occurred.

ARTICLE III ADMINISTRATION

Section 3.00 Building Permits Required

Building permits shall be required before any construction or development is undertaken within any area of the Township.

Section 3.01 Issuance of Building Permits

- A. The Building Permit Officer shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances.
- B. Prior to the issuance of any building permit, the Building Permit Officer shall review the application for permit to determine if all other necessary governmental permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act (Act 1966-537, as amended); the Dam Safety and Encroachments Act (Act 1978-325, as amended); the US Clean Water Act, Section 404, 33, USC 1334; and the Pennsylvania Clean Streams Act (Act 1937-394, as amended). Highway Occupancy Permit (Act 1986-43) No permit shall be issued until this determination has been made.

- C. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the municipality and until all required permits or approvals have been first obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified by the municipality prior to any alteration or relocation of any watercourse.

Section 3.02 Application Procedures and Requirements

- A. Application for such a building permit shall be made, in writing, to the Building Permit Officer on forms supplied by the Township. Such applications shall contain the following:
1. Name and address of applicant.
 2. Name and address of owner of land on which proposed construction is to occur.
 3. Name and address of contractor.
 4. Site location.
 5. Listing of other permits required.
 6. Brief description of proposed work and estimated cost.
 7. A plan of the site showing the size and location of the proposed construction as well as any existing buildings or structures.
- B. If any proposed construction or development is located entirely or partially within any identified floodplain area, applicants for Building Permits shall provide all the necessary information in sufficient detail and clarity to enable the Building Permit Officer to determine that:
- (a) all such proposals are consistent with the need to minimize flood damage and conform

with the requirements of this and all other applicable codes and ordinances;

- (b) all utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage; and
- (c) adequate drainage is provided so as to reduce exposure to flood hazards.

Applicants shall file the following minimum information, plus any other pertinent information as may be required by the Building Permit Officer to make the above determination:

1. A completed Building Permit Application Form.
2. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - a. north arrow, scale, and date;
 - b. topographic contour lines, if available;
 - c. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - d. the location of all existing and proposed buildings, structures, and other improvements, including the location of any existing or proposed subdivision and land development;
 - e. the location of all existing streets, drives, and other accessways; and
 - f. the location of any existing bodies of water or watercourses, identified floodplain areas, and, if available, information pertaining to the floodway, and the flow of water, including direction and velocities.
3. Plans of all proposed buildings, structures, and other improvements, drawn at suitable scale showing the following:

- a. the proposed lowest floor elevation of any proposed building based upon National Geodetic Vertical Datum of 1929;
 - b. the elevation of the one hundred (100) year flood;
 - c. if available, information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with a one hundred (100) year flood; and
 - d. detailed information concerning any proposed floodproofing measures.
4. The following data and documentation:
- a. documentation, certified by a registered professional engineer or architect, to show that the cumulative effect of any proposed development within an AE Area/District, when combined with all other existing and anticipated development, will not increase the elevation of the one hundred (100) year flood more than one foot at any point.
 - b. a document, certified by a registered professional engineer or architect, which states that the proposed construction or development has been adequately designed to withstand the one hundred (100) year flood elevations, pressures, velocities, impact, and uplift forces associated with the one hundred (100) year flood.

Such a statement shall include a description of the type and extent of flood-proofing measures which have been incorporated into the design of the structure and/or the development.
 - c. detailed information needed to determine compliance with Section 7.03 F., Storage, and Section 7.04, Development Which May Endanger Human Life, including:
 - (i) the amount, location, and purpose of any materials or substances referred to in Sections 7.03 F and 7.04 which are intended to be used, produced, stored, or otherwise maintained on site.
 - (ii) a description of the safeguards incorporated into the design of the

proposed structure to prevent leaks or spills of the dangerous materials or substances listed in Section 7.04 during a one hundred (100) year flood.

- d. the appropriate component of the Department of Environmental Resources "Planning Module for Land Development."
- e. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources, to implement and maintain erosion and sedimentation control.

Section 3.03 Review of Application by Others

A copy of all plans and applications for any proposed construction or development in any identified floodplain area to be considered for approval may be submitted by the Building Permit Officer to any other appropriate agencies and/or individuals (e.g. planning commission, municipal engineer, etc.) for review and comment.

Section 3.04 Changes

After the issuance of a building permit by the Building Permit Officer, no changes of any kind shall be made to the application, permit, or any of the plans, specifications, or other documents submitted with the application without the written consent or approval of the Building Permit Officer. Requests for any such change shall be in writing, and shall be submitted by the applicant to the Building Permit Officer for consideration.

Section 3.05 Placards

In addition to the building permit, the Building Permit Officer shall issue a placard which shall be displayed on the premises during the time construction is in progress. This placard shall show the number of the building permit, the date of its issuance, and be signed by the Building Permit Officer.

Section 3.06 Start of Construction

Work on the proposed construction shall begin within six (6) months and shall be completed within twelve (12) months after the date of issuance of the building permit or the permit shall expire unless a time extension is granted, in writing, by the Building Permit Officer. Construction shall be considered to

Time period

have started with the first placement of permanent construction on the site, such as the pouring of slabs or footings or any work beyond the stage of excavation. For a structure without a basement or poured footings, the start of construction includes the first permanent framing or assembly of the structure or any part thereof on its pilings or foundation, or the affixing of any prefabricated structure or mobile home to its permanent site. Permanent construction does not include land preparation, land clearing, grading, filling; excavation for basement, footings, piers, or foundations; erection of temporary forms; the installation of piling under proposed subsurface footings; or the installation of sewer, gas, and water pipes, or electric or other service lines from the street.

note

The extension shall be granted only if a written request is submitted by the applicant, which sets forth sufficient and reasonable cause for the Building Permit Officer to approve such a request.

Section 3.07 Inspection and Revocation

- A. During the construction period, the Building Permit Officer or other authorized official may inspect the premises to determine that the work is progressing in compliance with the information provided on the permit application and with all applicable municipal laws and ordinances. He shall make as many inspections during and upon completion of the work as are necessary.
- B. In the discharge of his duties, the Building Permit Officer shall have the authority to enter any building, structure, premises or development in the identified floodplain area, upon presentation of proper credentials, at any reasonable hour to enforce the provisions of this ordinance.
- C. In the event the Building Permit Officer discovers that the work does not comply with the permit applications or any applicable laws and ordinances, or that there has been a false statement or misrepresentation by any applicant, the Building Permit Officer shall revoke the building permit and report such facts to the Supervisors for whatever action they consider necessary.
- D. A record of all such inspections and violations of this Ordinance shall be maintained.

Section 3.08 Fees

Applications for a building permit shall be accompanied by a fee, payable to the municipality, based upon the estimated cost of the proposed construction, as determined by the Building Permit Officer, at the following rates:

| <u>Building Cost</u> | <u>Fee</u> |
|---|------------|
| \$0 - \$999 Dollars | \$10.00 |
| \$1,000 + | \$20.00 |
| <u>Non-Buildings</u> (eg. fences, above ground pools, filling, grading, excavating, paving, utilities, mining, dredging etc.) | \$ 0.00 |

*Free
Schedule*

*Letter
Submitting
Scale*

Section 3.09 Enforcement

A. Notices

Whenever the Building Official or other authorized municipal representative determines that there are reasonable grounds to believe that there has been a violation of any provision of this Ordinance, or of any regulations adopted pursuant thereto, such authority shall give notice of such alleged violation as hereinafter provided. Such notice shall (a) be in writing; (b) include a statement of the reasons for its issuance; (c) allow a reasonable time for the performance of any act it requires; (d) be served upon the property owner or his agent as the case may require; provided, however, that such notice or order shall be deemed to have been properly served upon such owner or agent when a copy thereof has been served with such notice by any other method authorized or required by the laws of this state; (e) contain an outline of remedial action which, if taken, will affect compliance with the provisions of this Ordinance, or any part thereof, and with the regulations adopted pursuant thereto.

B. Penalties

Any person who fails to comply with any or all of the requirements or provisions of this Ordinance or who fails or refuses to comply with any notice, order, or direction of the Building Permit Officer

or any other authorized employee of the municipality, shall be guilty of an offense and, upon conviction, shall pay a fine to the Township of not less than Twenty-five Dollars (\$25) nor more than Three Hundred Dollars (\$300), plus costs of prosecution. In default of such payment, such person shall be imprisoned in county prison for a period not to exceed ten (10) days. Each day during which any violation of this Ordinance continues shall constitute a separate offense. In addition to the above penalties all other actions are hereby reserved including an action in equity for the proper enforcement of this Ordinance. The imposition of a fine or penalty for any violation of, or noncompliance with, this Ordinance shall not excuse the violation or noncompliance or permit it to continue; and all such persons shall be required to correct or remedy such violations and noncompliances within a reasonable time. Any structure or building construction, reconstructed, enlarged, altered, or relocated, in noncompliance with this Ordinance may be declared by the Supervisors to be a public nuisance and abatable as such.

Section 3.10 Appeals

- A. Any person aggrieved by an action or decision of the Building Permit Officer involving administration of the provisions of the Ordinance may appeal to the Township Supervisors. Such appeal must be filed, in writing, within thirty (30) days after the decision or action by the Building Permit Officer.
- B. Upon receipt of such appeal, the Township Supervisors shall set a time and place, within not less than ten (10) nor more than thirty (30) days, for the purpose of considering the appeal. Notice of the time and place of the hearing of the appeal shall be given to all the parties.
- C. Any person aggrieved by any decision of the Supervisors may seek relief therefrom by appeal to court, as provided by the laws of the Commonwealth, including the Pennsylvania Flood Plain Management Act.

ARTICLE IV GENERAL PROVISIONS

Section 4.00 Design Standards

The plans and specifications submitted as provided in Section 3.02 above shall conform to the

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following requirements, and any building constructed within the Township, or any addition to any existing building therein, must conform to the following requirements:

- A. No building shall be located closer than forty (40) feet from the street right-of-way or sixty-five (65) feet from the street centerline.
- B. No building shall be located closer than fifteen (15) feet from any property line, and no residence shall be constructed within thirty (30) feet of an existing residential structure.
- C. No building or structure shall be constructed closer than fifty (50) feet from the top-of-bank of any watercourse.

ARTICLE V FLOODPLAIN PROVISIONS

Section 5.00 Construction or Development

- A. Any new construction, development, uses or activities allowed within any identified floodplain area, shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances and regulations.
- B. Repairs, improvements, or modifications to an existing structure which amount to less than fifty (50) percent of the market value are permitted provided such work does not result in the expansion or enlargement of the structure.

Section 5.01 Identification

- A. For the purposes of this Ordinance, the areas considered to be floodplain within the Township shall be those areas identified as being subject to flooding by a one hundred (100) year flood in the Flood Insurance Study prepared for the Township by the Federal Emergency Management Agency or the most recent revision thereof, or the areas shown as such on the most recent (FIRM) Flood Insurance Rate Map.
- B. A map showing all areas considered to be subject to the one hundred (100) year flood is available for inspection at the Township office. For the purposes of this Ordinance,

the following nomenclature is used in referring to the various kinds of floodplain areas:

- AE The AE Area/District shall be those areas identified as an AE Zone on the FIRM included in the FIS prepared by FEMA and for which one hundred (100) year flood elevations have been provided in the FIS.
- FA (General Floodplain Area) - the areas identified as "Approximate 100 year Floodplain" in the Flood Insurance Study prepared by FEMA.
- C. The FA (General Floodplain Area) shall be that floodplain for which no detailed flood elevations or floodway information is provided. Such areas are shown as Zone A on the maps accompanying the Flood Insurance Study prepared by FEMA. For these areas, elevation and floodway information from other Federal, State, or other acceptable sources, shall be used when available. When such other acceptable information is not available, the applicant for the proposed use, development, or activity shall determine the one hundred (100) year flood elevation in accordance with hydrologic and hydraulic engineering techniques.
- D. The identified floodplain area may be revised or modified by the Township Supervisors where studies or information provided by a qualified agency or person documents the need for such revision or modification. However, prior to any such change, approval must be obtained from the Federal Emergency Management Agency.
- E. Should a dispute concerning any identified floodplain boundary arise, any party aggrieved by such determination may appeal to the Supervisors. The burden of proof shall be on the appellant.
- F. The Municipality reserves the right to require the applicant to delineate a floodway area and provide sufficient documentation to demonstrate that his proposed activity, together with all other existing and

anticipated development, uses, and activities, will not increase the water surface elevation of the one hundred (100) year flood more than one (1) foot at any point. The engineering principle of equal reduction of conveyance, shall be used to make the determination of increases in flood heights.

- G. Hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc., shall be submitted in sufficient detail to allow a thorough technical review by the Township.

ARTICLE VI VARIANCES

Section 6.00 General

If compliance with any of the requirements of this ordinance would result in an exceptional hardship to a prospective builder, developer or landowner, the Township Supervisors may, upon request, grant relief from the strict application of the requirements.

Section 6.01 Variance Procedures and Requirements

Requests for variance shall be considered by the Township Supervisors in accordance with the following:

- A. No variance shall be granted for any construction, development, use, or activity within any floodway area that would cause any increase in the one hundred (100) year flood elevation.
- B. Except for a possible modification of the one and one-half (1 1/2) foot freeboard requirements, no variance shall be granted for any of the other requirements pertaining specifically to development regulated by Special Permits (Article VIII) or to Development Which May Endanger Human Life (Section 7.04).
- C. If granted, a variance shall involve only the least modification necessary to provide relief.
- D. In granting any variance, the Township shall attach whatever reasonable conditions and safeguards it considers necessary in order to

protect public health, safety, and welfare, and to achieve the objectives of this Ordinance.

- E. Whenever a variance is granted, the Township shall notify the applicant in writing that:
 - a. the granting of the variance may result in increased premium rates for flood insurance.
 - b. such variances may increase the risks to life and property.
- F. In reviewing any request for a variance, the Township shall consider, but be limited to, the following:
 - a. that there is good and sufficient cause.
 - b. that failure to grant the variance would result in exceptional hardship to the applicant.
 - c. that the granting of the variance will (i) neither result in an unacceptable or prohibited increase in flood heights, additional threats to public safety, or extraordinary public expenses; (ii) nor create nuisances, cause fraud on, or victimize the public, or conflict with any other applicable State statute or regulations, or local ordinances or regulations.
- G. A complete record of all variance requests and related actions shall be maintained by the Township. In addition, a report of all variances granted during the year shall be included in the annual report to the Federal Emergency Management Agency.

Notwithstanding any of the above, however, all structures shall be designed and constructed so as to have the capability of resisting the one hundred (100) year flood.

ARTICLE VII TECHNICAL PROVISIONS

Section 7.00 General

- A. No encroachment, alteration, or improvement of any kind shall be made to any watercourse until all adjacent municipalities which may be affected by such action have been notified by the

municipality, and until all required permits or approvals have been first obtained from the Department of Environmental Resources, the Bureau of Dams and Waterway Management.

In addition, the Federal Emergency Management Agency and Pennsylvania Department of Community Affairs, Bureau of Community Planning, shall be notified prior to any alteration or relocation of any watercourse.

- B. Any new construction, development, uses, or activities allowed within any identified floodplain area, shall be undertaken in strict compliance with the provisions contained in this Ordinance and any other applicable codes, ordinances, and regulations.
- C. Within any AE Area/District, no new construction or development shall be allowed unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the elevation of the one (100) year flood more than one (1) foot at any point.

Section 7.01 Special Floodway and Stream Setback Requirements

- A. Within any floodway area, the following provisions apply:
 - 1. Any new construction, development, use, activity, or encroachment that would cause any increase in flood heights shall be prohibited.
 - 2. No new construction or development shall be allowed, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.
- B. Within any FA (General Floodplain Area) or AE Area, the following provisions apply:
 - 1. No new construction or development shall be located within the area measured fifty (50) feet landward from the top-of-bank of any watercourse, unless a permit is obtained from the Department of Environmental Resources, Bureau of Dams and Waterway Management.

2. Any new construction, development, use, activity, or encroachment which would cause any increase in flood heights shall be prohibited within a floodway area delineated by an applicant.

Section 7.02 Elevation and Floodproofing Requirements

A. Residential Structures

Within any Identified Flood Plain Area, the lowest floor (including the basement) of any new or substantially improved residential structure shall be at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation.

B. Non-Residential Structures

1. Within any Identified Flood Plain Area, the lowest floor (including the basement) of any new or substantially improved non-residential structure shall be at least one and one-half (1 1/2) feet above the one hundred (100) year flood elevation, or be designed and constructed so that the space enclosed by such structure shall remain either completely or essentially dry during any flood up to that height.
2. Any non-residential structure, or part thereof, having a lowest floor (including basement) which is not elevated to at least one and one half (1 1/2) feet above the one hundred year flood elevation, shall be floodproofed in a completely or essentially dry manner in accordance with the W-1 or W-2 space classification standards contained in the publication entitled "Flood-Proofing Regulations" published by the U.S. Army Corps of Engineers (June 1972), or with some other equivalent standard. All plans and specifications for such floodproofing shall be accompanied by a statement certified by a registered professional engineer or architect which states that the proposed design and methods of construction are in conformance with the above referenced standards.

C. Enclosed Areas Below the Lowest Floor

Enclosed areas below the lowest floor (including the basement) are prohibited.

Section 7.03 Design and Construction Standards

The following standards shall apply for all construction and development proposed within any identified floodplain area:

A. Fill

If fill is used, it shall:

1. extend laterally at least fifteen (15) feet beyond the building line from all points.
2. consist of soil or small rock materials only. Sanitary Landfills shall not be permitted.
3. be compacted to provide the necessary permeability and resistance to erosion, scouring, or settling.
4. be no steeper than one (1) vertical to two (2) horizontal, unless substantiated data, justifying steeper slopes are submitted to, and approved by the Building Permit Officer.
5. be used to the extent to which it does not adversely affect adjacent properties.

B. Drainage

Storm drainage facilities shall be designed to convey the flow of storm water runoff in a safe and efficient manner. The system shall insure proper drainage along streets, and provide positive drainage away from buildings. The system shall also be designed to prevent the discharge of excess runoff onto adjacent properties.

C. Water and Sanitary Sewer Facilities and Systems

1. All new or replacement water and sanitary sewer facilities and systems shall be located, designed, and constructed to minimize or eliminate flood damages and the infiltration of flood waters.
2. Sanitary sewer facilities and systems shall be designed to prevent the discharge of untreated sewage into flood waters.
3. No part of any on-site sewage system shall be located within any identified floodplain area except in strict compliance with all State and local regulations for such systems. If any such system is permitted, it shall be

located so as to avoid impairment to it, or contamination from it, during a flood.

D. Other Utilities

All other utilities, such as, gas lines, electrical and telephone systems shall be located, elevated (where possible) and constructed to minimize the chance of impairment during a flood.

E. Streets

The finished elevation of all new streets shall be no more than one (1) foot below the Regulatory Flood Elevation.

F. Storage

All materials that are buoyant, flammable, explosive or, in times of flooding, could be injurious to human, animal, or plant life, and not listed in Section 7.04, Development Which May Endanger Human Life, shall be stored at or above the Regulatory Flood Elevation and/or floodproofed to the maximum extent possible.

G. Placement of Buildings and Structures

All buildings and structures shall be designed, located, and constructed so as to offer the minimum obstruction to the flow of water and shall be designed to have a minimum effect upon the flow and height of flood water.

H. Anchoring

1. All buildings and structures shall be firmly anchored in accordance with accepted engineering practices to prevent flotation, collapse, or lateral movement.
2. All air ducts, large pipes, storage tanks, and other similar objects or components located below the Regulatory Flood Elevation shall be securely anchored or affixed to prevent flotation.

I. Floors, Walls, and Ceilings

1. Wood flooring used at or below the Regulatory Flood Elevation shall be installed to accommodate a lateral expansion of the flooring, perpendicular to the flooring grain

without causing structural damage to the building.

2. Plywood used at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
3. Walls and ceilings at or below the Regulatory Flood Elevation shall be designed and constructed of materials that are water-resistant and will withstand inundation.
4. Windows, doors, and other components at or below the Regulatory Flood Elevation shall be made of metal or other water-resistant material.

J. Paints and Adhesives

1. Paints or other finishes used at or below the Regulatory Flood Elevation shall be of a "marine" or water-resistant quality.
2. Adhesives used at or below the Regulatory Flood Elevation shall be of a "marine" or water-resistant quality.
3. All wooden components (doors, trim, cabinets, etc.) used at or below the Regulatory Flood Elevation shall be finished with a "marine" or water-resistant paint or other finishing material.

K. Electrical Components

1. Electrical distribution panels shall be at least three (3) feet above the one hundred (100) year flood elevation.
2. Separate electrical circuits shall serve lower levels and shall be dropped from above.

L. Equipment

Water heaters, furnaces, air conditioning, and ventilating units, and other electrical, mechanical, or utility equipment or apparatus shall not be located below the Regulatory Flood Elevation.

M. Fuel Supply Systems

All gas and oil supply systems shall be designed to prevent the infiltration of flood waters into the system and discharges from the system into flood waters. Additional provisions shall be made for the drainage of these systems in the event that flood water infiltration occurs.

Section 7.04 Development Which May Endanger Human Life

A. In accordance with the Pennsylvania Flood Plain Management Act, and the regulations adopted by the Department of Community Affairs as required by the Act, any new or substantially improved structure which:

- will be used for the production or storage of any of the following dangerous materials or substances; or,

- will be used for any activity requiring the maintenance of a supply of more than 550 gallons, or other comparable volume, of any of the following dangerous materials or substances on the premises; or,

- will involve the production, storage, or use of any amount of radioactive substances;

shall be subject to the provisions of this section, in addition to all other applicable provisions. The following list of materials and substances are considered dangerous to human life:

- a. Acetone
- b. Ammonia
- c. Benzene
- d. Calcium carbide
- e. Carbon disulfide
- f. Celluloid
- g. Chlorine
- h. Hydrochloric acid
- i. Hydrocyanic acid
- j. Magnesium
- k. Nitric acid and oxides of nitrogen

- l. Petroleum products (gasoline, fuel oil, etc.)
 - m. Phosphorus
 - n. Potassium
 - o. Sodium
 - p. Sulphur and sulphur products
 - q. Pesticides (including insecticides, fungicides, and rodenticides)
 - r. Radioactive substances, insofar as such substances are not otherwise regulated.
- B. Within any FW (Floodway Area), any structure of the kind described in Subsection A, above, shall be prohibited.
- C. Within any FA (General Floodplain Area), any structure of the kind described in Subsection A, above, shall be prohibited within the area measured fifty (50) feet landward from the top-of-bank of any watercourse.
- D. Where permitted within any FF (Flood-Fringe Area) or FA (General Floodplain Area) or AE Area, any structure of the kind described in Subsection A, above shall be:
1. elevated or designed and constructed to remain completely dry up to at least one and one-half (1 1/2) feet above the one hundred (100) year flood and
 2. designed to prevent pollution from the structure or activity during the course of a one hundred (100) year flood.

Any such structure, or part thereof, that will be built below the Regulatory Flood Elevation shall be designed and constructed in accordance with the standards for completely dry flood-proofing contained in the publication "Flood-Proofing Regulations" (U.S. Army Corps of Engineers, June 1972), or with some other equivalent watertight standard.

Section 7.05 Special Requirements for Manufactured Homes

- A. With any floodway area, manufactured homes shall be prohibited.
- B. Within any FA (General Floodplain Area) or AE Area, manufactured homes shall be prohibited

within the area measured fifty (50) feet landward from top-of-bank of any watercourse.

- C. Where permitted within any floodplain area, all manufactured homes, and any additions thereto, shall be:
 - 1. placed on a permanent foundation.
 - 2. elevated so that the lowest floor of the manufactured home is one and one half (1 1/2) feet or more above the elevation of the one hundred (100) year flood.
 - 3. anchored to resist flotation, collapse, or lateral movement.

ARTICLE VIII

Section 8.00 General

In accordance with the administration regulations promulgated by the Department of Community Affairs to implement the Pennsylvania Flood Plain Management Act, the following activities shall be prohibited within any identified floodplain area unless a Special Permit has been issued by the Township.

- A. The commencement of any of the following activities; or the construction, enlargement, or expansion of any structure used, or intended to be used, for any of the following activities:
 - 1. hospitals
 - 2. nursing homes
 - 3. jails or prisons
- B. The commencement of, or any construction of, a new manufactured home park or manufactured home subdivision, or substantial improvement to an existing manufactured home park or manufactured home subdivision.

Section 8.01 Application Requirements for Special Permits

Applicants for Special Permits shall provide five copies of the following items:

- A. A written request including a completed Building Permit Application Form.

- B. A small scale map showing the vicinity in which the proposed site is located.
- C. A plan of the entire site, clearly and legibly drawn at a scale of one (1) inch being equal to one hundred (100) feet or less, showing the following:
 - 1. north arrow, scale, and date;
 - 2. topography based upon the National Geodetic Vertical Datum of 1929, showing existing and proposed contours at intervals of two (2) feet;
 - 3. all property and lot lines including dimensions, and the size of the site expressed in acres or square feet;
 - 4. the location of all existing streets, drives, other accessways, and parking areas, with information concerning widths, pavement types and construction, and elevations;
 - 5. the location of any existing bodies of water or watercourses, buildings, structures, and other public or private facilities, including railroad tracks and facilities and any other natural and man-made features affecting, or affected by, the proposed activity or development;
 - 6. the location of the floodplain boundary line, information and spot elevations concerning the one hundred (100) year flood elevations, and information concerning the flow of water including direction and velocities;
 - 7. the location of all proposed buildings, structures, utilities, and any other improvements; and
 - 8. any other information which the municipality considers necessary for adequate review of the application.
- D. Plans of all proposed buildings, structures, and other improvements, clearly and legibly drawn at suitable scale showing the following:
 - 1. sufficiently detailed architectural or engineering drawings including floor plans, sections, and exterior building elevations, as appropriate;

2. for any proposed building, the elevation of the lowest floor (including basement) and, as required, the elevation of any other floor;
3. complete information concerning flood depths, pressures, velocities, impact and uplift forces, and other factors associated with the one hundred (100) year flood;
4. detailed information concerning any proposed flood-proofing measures;
5. cross-section drawings for all proposed streets, drives, other accessways, and parking areas, showing all rights-of-way and pavement widths;
6. profile drawings for all proposed streets, drives, and vehicular accessways including existing and proposed grades; and
7. plans and profiles of all proposed sanitary and storm sewer systems, water supply systems, and any other utilities and facilities.

E. The following data and documentation:

1. certification from the applicant that the site upon which the activity or development is proposed is an existing separate and single parcel, owned by the applicant or the client he represents;
2. certification from a registered professional engineer, architect, or landscape architect that the proposed construction has been adequately designed to protect against damage from the one hundred (100) year flood;
3. a statement, certified by a registered professional engineer, architect, landscape architect, or other qualified person which contains a complete and accurate description of the nature and extent of pollution that might possibly occur from the development during the course of a one hundred (100) year flood, including a statement concerning the effects such pollution may have on human life;
4. a statement certified by a registered professional engineer, architect, or

landscape architect, which contains a complete and accurate description of the effects the proposed development will have on one hundred (100) year flood elevations and flows;

5. a statement, certified by a registered professional engineer, architect, or landscape architect, which contains a complete and accurate description of the kinds and amounts of any loose buoyant materials or debris that may possibly exist or be located on the site below the one hundred (100) year flood elevation and the effects such materials and debris may have on one hundred (100) year flood elevations and flows;
6. the appropriate component of the Department of Environmental Resources' "Planning Module for Land Development;"
7. where any excavation or grading is proposed, a plan meeting the requirements of the Department of Environmental Resources to implement and maintain erosion and sedimentation control;
8. any other applicable permits such as, but not limited to, a permit for any activity regulated by the Department of Environmental Resources under Section 302 of Act 1978-166; and
9. an evacuation plan which fully explains the manner in which the site will be safely evacuated before or during the course of a one hundred (100) year flood.

Section 8.02 Application Review Procedures

Upon receipt of an application for a Special Permit by the Township, the following procedures shall apply in addition to those of Article III:

- A. Within three (3) working days following receipt of the application, a complete copy of the application and all accompanying documentation shall be forwarded to the County Planning Commission by registered or certified mail for its review and recommendations. Copies of the application shall also be forwarded to the Township, Planning Commission, and Township

Engineer (to be retained by the applicant) for review and comment.

- B. If an application is received that is incomplete, the Township shall notify the applicant in writing, stating in what respect the application is deficient.
- C. If the Township decides to disapprove an application, it shall notify the applicant, in writing, of the reasons for the disapproval.
- D. If the Township approves an application, it shall file written notification, together with the application and all pertinent information, with the Department of Community Affairs, by registered or certified mail, within five (5) working days after the date of approval.
- E. Before issuing the Special Permit, the Township shall allow the Department of Community Affairs thirty (30) days, after receipt of the notification by the Department, to review the application and decision made by the Township.
- F. If the Township does not receive any communication from the Department of Community Affairs during the thirty (30) day review period, it may issue a Special Permit to the applicant.
- G. If the Department of Community Affairs should decide to disapprove an application, it shall notify the Township and the applicant, in writing, of the reasons for the disapproval, and Township shall not issue the Special Permit.

Section 8.03 Special Technical Requirements.

- A. In addition to the requirements of Article VII of this Ordinance, the following minimum requirements shall also apply to any proposed development requiring a Special Permit. If there is any conflict between any of the following requirements and those in Article VII of this Ordinance or in any other code, ordinance, or regulation, the more restrictive provision shall apply.
- B. No application for a Special Permit shall be approved unless it can be determined that the structure or activity will be located, constructed, and maintained in a manner which will:

1. Fully protect the health and safety of the general public and any occupants of the structure. At a minimum, all new structures shall be designed, located, and constructed so that:
 - a. the structure will survive inundation by waters of the one hundred (100) year flood without any lateral movement or damage to either the structure itself, or to any of its equipment or contents below the one hundred (100) year flood elevation.
 - b. the lowest floor elevation will be at least one and one half (1 1/2) feet above the one hundred (100) year flood elevation.
 - c. the occupants of the structure can remain inside for an indefinite period of time and be safely evacuated at any time during the one hundred (100) year flood.
2. Prevent any significant possibility of pollution, increased flood levels or flows, or debris endangering life and property.

All hydrologic and hydraulic analyses shall be undertaken only by professional engineers or others of demonstrated qualifications, who shall certify that the technical methods used correctly reflect currently accepted technical concepts. Studies, analyses, computations, etc. shall be submitted in sufficient detail to allow a thorough technical review by the Township and the Department of Community Affairs.

ARTICLE IX EXISTING STRUCTURES IN IDENTIFIED FLOODPLAIN AREAS

Section 9.00 General

Structures existing in any identified floodplain area prior to the enactment of this Ordinance may continue subject to the following provision:

- A. No expansion or enlargement of an existing structure shall be allowed within any identified floodway that would cause any increase in flood heights.
- B. Any modification, alteration, reconstruction, or improvement of any kind to an existing structure,

to an extent or amount of fifty (50) percent or more of its market value shall constitute a substantial improvement and shall be undertaken only in full compliance with the provisions of this Ordinance.

- C. Any modification, alteration, reconstruction, improvement of any kind to an existing structure, to an extent or amount of less than fifty (50) percent of its market value, shall be elevated and/or floodproofed to the greatest extent possible.

Adopted at a Regular meeting of the Board of
Supervisors of Jackson Township, Huntingdon County,
Pennsylvania on the 31st day of July, 1987

Ralph Weiler
Chairman

Gary L. Nelson

Leroy J. Roth Secy
Attest

Township Seal

783

Exhibit 16

JACKSON TOWNSHIP BOARD OF SUPERVISORS
RD#1, BOX 390, PETERSBURG, PA. 16669
814-667-2992 - FAX 814-667-3892

October 10, 2000

Mr. & Mrs. David B. Corneal
505 East Fairmont Avenue
State College, Pa. 16801

Dear Mr. And Mrs. Corneal:

Please be advised that Jackson Township has referred to me for review your applications for buildings permits. As you may be aware, the Township's Building Permit Ordinance provides that the Building Permit Officer "shall issue a building permit only after it has been determined that the proposed work to be undertaken will be in conformance with the requirements of this and all other applicable codes and ordinances." Further, the Ordinance provides that prior to the issuance of any building permit, the Permit Officer "shall review the application for permit to determine if all other necessary governmental permits required by State and Federal laws have been obtained, such as those required by the Pennsylvania Sewage Facilities Act."

For the following reasons, your applications are being denied: First, you have not complied with the Pennsylvania Sewage Facilities Act. At this time, you do not have a sewage permit. A building permit cannot be issued without a sewage permit. While you submitted Sewage Facilities Planning Modules to the Township, the Township cannot forward the Planning Modules to the Department of Environmental Protection for review until you meet the requirements of the Township's Subdivision and Land Development Ordinance. A copy of the Ordinance is enclosed. Second your application inadequately described the proposed construction. Third, you did not include an adequate plan of the site showing the size and location of the proposed construction as well as any existing buildings. Fourth, you have not complied with the Township's Driveway Ordinance, a copy of which is enclosed. Fifth, as noted above you have failed to comply with the Township's Subdivision and Land Development Ordinance.

Very truly-yours,

DAVID B. VAN DOMMELEN
Building Permit Officer

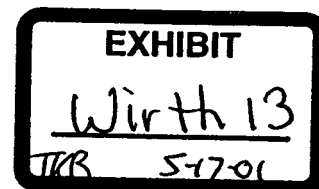
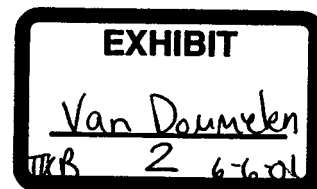


Exhibit 17

DAVID B. CORNEAL

ATTORNEY AT LAW

1445 WEST COLLEGE AVENUE

STATE COLLEGE, PENNSYLVANIA 16801

MEMBER:
PENNSYLVANIA BAR
FLORIDA BAR

(814) 238-1925
(814) 238-1929

Mr. David Van Dommelen
R.D. 1, Box 631
Petersburg, Pa. 16669

May 5, 2000

RE: Garage Building Permit

Dear Mr. Van Dommelen,

Since you have failed to call me as promised, or to return my phone call, regarding my requested Building Permit, I assume you are continuing to hold in your stated position from our last Thursday meeting in your home.

At that time I brought you a copy of my building plan for a garage approximately 20' by 40'. As stated at that meeting, since there was no sewer or water in the garage, I qualified for a building permit. In fact, you stated that if any other Jackson Township property owner requested a permit to construct a garage, you would issue them the permit. Your justification for refusing to give me even an application for a permit was that I was that "trouble making yuppie from over the mountain" and the supervisors told you not to give me any building permits. You then proceeded to call the individual supervisors for further instructions. In my presence, you got Tom Wilson on the phone who told you not to grant me the building permit after you explained to him that it was just for a garage 20' by 40'. You then told me that the supervisors were meeting the next morning (Friday April 28) to discuss my permit and that you would then call me. I then wrote down two phone numbers where you could reach me 24 hours a day or night.

Having not heard from you, I called you on Wed. May 3 and left a message on your answering machine to call me. You have obviously chosen to ignore the promise or my request. Where upon you asked me to leave, refusing to give me even an application form for a building permit.

If you disagree with any of the facts set forth herein please advise me in writing.

Sincerely,


David B. Corneal, Esq.

EXHIBIT

Van Dommelen

TJB 1 6-6-0

EXHIBIT

Wirth 15

TJB 5-7-01

Exhibit 18

SUGGESTED IDEAS

BUILDING PERMIT FEES AND B.P. OFFICER % FEE

| | | | PERMIT | B.P.O. % |
|----|---------|--------------|----------------|----------|
| | 0 | - \$ 999 | \$15.00 | \$ 6.00 |
| \$ | 1,000 | - \$ 15,999 | \$20.00 | \$ 8.00 |
| \$ | 16,000 | - \$ 24,999 | \$30.00 | \$ 12.00 |
| \$ | 25,000 | - \$ 35,999 | \$40.00 | \$ 16.00 |
| \$ | 36,000 | - \$ 49,000 | \$50.00 | \$ 20.00 |
| \$ | 50,000 | - \$ 99,999 | \$60.00 | \$ 24.00 |
| \$ | 100,000 | - \$ 499,999 | <u>\$70.00</u> | \$ 28.00 |

A \$10.00 fee will be charged for any additional follow-up trips after the initial contact.

SUBMITTED BY

David B Van Dommelen
Jackson Township
Building Permit Officer

March 7, 1994

EXHIBIT

Van Dommelen
TXB 4 65-01

| NAME | FEE | DATE | PERMIT NO | VALUE | PURPOSE |
|--------------------------|---------|----------|-----------|------------|-------------------------|
| Roland G. Yoder | \$20.00 | 12/6/89 | 25-89m | \$10,000 | living qtrs. |
| Leslie L. Lutz Jr. | \$20.00 | 12/16/89 | 26-89n | \$4,000.00 | Mobile home |
| Charles Wirth | \$20.00 | 3/3/90 | 01-90 | \$45,000 | House |
| James Stewart | \$20.00 | 3/6/90 | 02-90 | \$1400.00 | storage shed |
| Raymond Tussey | \$20.00 | 3/12/90 | 03-90 | \$5,000.00 | machinestor |
| Marie H. Porter | \$20.00 | 3/12/90 | 04-90 | \$3,000.00 | garage |
| Donald H. Gibboney | \$10.00 | 3/22/90 | 05-90 | \$500.00 | storage |
| Albert Hershey | \$10.00 | 3/31/90 | 06-90 | \$400.00 | faimly room |
| Stoney Lonesome R&G club | \$20.00 | 3/31/90 | 07-90 | \$16,000 | camp |
| Thomas Eckley | \$20.00 | 4/7/90 | 08-90 | \$5400.00 | garage remodel |
| Robert Nichol | \$20.00 | 4/9/90 | 09-90 | \$40,000 | house mobile home |
| Laurence Moyer | \$20.00 | 4/27/90 | 10-90 | \$7500.00 | home |
| Walter C. Hagans | \$20.00 | 5/7/90 | 11-90 | 2000.00 | porch roof |
| David P. Melson | \$20.00 | 5/16/90 | 12-90 | 11,200.00 | Garage |
| Wilbur Foster | \$10.00 | 5/23/90 | 13-90 | \$200.00 | Porch |
| D & D Hamberger | \$20.00 | 5/25/90 | 14-90 | \$35,000 | Addition to Summer Home |
| D. Van Dommelen | \$20.00 | 6/2/90 | 15-90 | \$4000.00 | Extension |
| Richard Rudy | \$20.00 | 6/12/90 | 16-90 | #3500.00 | Garage |
| Andrew Couch | \$10.00 | 7/7/90 | 17-90 | \$400.00 | Porch |
| Richard Chura | \$20.00 | 7/8/90 | 18-90 | \$50,000 | House/Camp |
| Walter Garner | \$10.00 | 7/10/90 | 19-90 | \$100.00 | Roof Repair |
| Kevin Monihen | \$20.00 | 7/17/90 | 20-90 | \$50,000 | Build House |
| J & N Albright | \$20.00 | 7/17/90 | 21-90m | \$1,700 | Harse Barn |
| E. Scott Walker | \$10.00 | 7/20/90 | 22-90 | \$500. | Storage She |
| Kenneth Miller | \$20.00 | 7/28/90 | 23-90 | \$2239.78 | Utility Bui Gazebo |
| Hazel M. Briggs | \$10.00 | 8/4/90 | 24-90 | 400.00 | House Sider |

| NAME | FEE | DATE | PERMIT NO. | VALUE | PURPOSE |
|-------------------------|----------------|---------------|------------------|----------------|------------------------|
| Richard A. Boonie | \$20.00 | 8/9/90 | 25-90 | \$55,000 | Home |
| James Simparosa | \$20.00 | 8/23/90 | 26-90 | 2,000 | Trailer Ext |
| David B. Van Dommelen | \$20.00 | 8/28/90 | 27-90 | \$5,000 | Studio Extend |
| Eugene Bigelow | \$10.00 | 9/12/90 | 28-90 | \$300.00 | Porch & cella door |
| Donald Biddle | \$20.00 | 9/23/90 | 29-90 | \$5867 | Garage |
| Mary Duxeman | \$20.00 | | 30-90 | | Garage |
| Caroline A. McGraw | \$20.00 | 10/10/90 | 31-90 | \$72,000 | House |
| Clifford D. Towson | \$20.00 | 10/14/90 | 32-90 | \$100,000 | House |
| Jeffery Shoemaker | \$20.00 | 10/22/90 | 33-90 | \$80,000 | House |
| Robert Nichols | \$20.00 | 10/22/90 | 34-90 | \$2500. | Mobile Home |
| James Morris | \$20.00 | 10/26/90 | 35-90 | @2,600. | Garage |
| Ken Miller | \$20.00 | 10/30/90 | 36-90 | \$500,000. | 4 buildings at Mill |
| Fred K. Tucker | \$20.00 | 10/3/90 | 37-90 | \$150,000. | House & Ga |
| Scott Pletcher | \$20.00 | 11/29/90 | 38-90 | \$4000.00 | Garage |
| Sumner Smith | \$20.00 | 16/1/91 | 1-91 | \$5500.00 | IceCream Stan |
| Norman Keller | \$20.00 | 1/23/91 | 2-91 | \$5000.00 | Family Room |
| <i>Fred V Schilling</i> | <i>\$20.00</i> | <i>2/3/91</i> | <i>3-91</i> | <i>1500.00</i> | <i>Barn</i> |
| Robert Reese | \$10.00 | 3/19/91 | 4-91 | \$600.00 | Siding |
| Bruce Smith | \$20.00 | 3/26/91 | 4 -91 | \$8,000. | Pole Barn |
| Robert Guyer Sr. | \$10.00 | 4/2/91 | 6-91 | \$1,000 | Extend House |
| Chester Benson | \$20.00 | 4/4/91 | 7-91 | \$3,000. | Car Port |
| Larry H. Ross | \$20.00 | 4/12/91 | 8-91 | \$2,000 | Siding, etc. |
| Lawrence Moyer | \$10.00 | 4/15/91 | 9-91 | \$1,000 | Deck & shkirt |
| Walnut Acres Camp | \$10.00 | 6/6/91 | 10-91 | \$400. | Pavilion |
| Robert Herr - Camp | \$10.00 | 11/5/91 | 11-91 | \$1,000 | Roof etc. |
| Robert Nichols | \$20.00 | 5/16/91 | 12-91 | \$12,000 | Barn |
| James Leisey | \$10.00 | 5/23/91 | 13-91 | \$1,000 | Barn |
| Ricky Watt | \$20.00 | 5/23/91 | 14-91 | \$2,500 | CarPort |
| Willard Yoder | \$20.00 | 5/28/91 | 15-91 | \$80,000 | House |

| NAME | FEE | DATE | PERMIT No. | VALUE | PURPOSE |
|-----------------------------|---------|----------|------------|-----------|---------------------|
| Walter Hagans | \$20.00 | 5/28/91 | 16-91 | \$1,500 | Carport |
| James Leisey | \$10.00 | 5/30/91 | 17-91 | \$600.00 | Pront Roof |
| Roland Yoder | \$20.00 | 6/13/91 | 18-91 | \$5,000 | Extend Shed |
| G. Merle Hawn | \$10.00 | 6/20/91 | 19-91 | \$500. | Picni Pavilio |
| Eagle Excavation | \$20.00 | 6/24/91 | 20-91 | \$2,000 | Pole Building |
| Stdrret Watt | \$10.00 | 6/25/91 | 21-91 | #300.00 | Porch |
| Caroline A. McGraw | \$20.00 | 7/3/91 | 22-91 | \$10,000 | Garge |
| James D. Henry | \$10.00 | 7/11/91 | 23-91 | \$1,000 | Storage/Garag |
| Jay Yoder | \$10.00 | 7/27/91 | 24-91 | \$500.00 | Utility Shed |
| Herbert Clinger | \$10.00 | 8/3/91 | 25-91 | \$900.00 | Pole Shed |
| Mary Dukeman <i>Box 582</i> | \$20.00 | 8/3/91 | 26-91 | \$2450.00 | Carport/sidi |
| Karl Raudensky | \$20.00 | 8/10/91 | 27-91 | \$30,000 | Cabin/camp |
| William Dickson | \$20.00 | 8/22/91 | 28/91 | \$6000.00 | Porch & Siding |
| T. Couch | \$10.00 | 9/9/91 | 29/91 | \$500.00 | Pavillion |
| Ron Wilson | \$20.00 | 9/9/91 | 30-91 | \$6000.00 | Extend Bedro |
| Wayne Mambeck | \$10.00 | 9/6/91 | 32-91 | \$800.00 | Porch |
| J. Edward Rudy | \$10.00 | 10/5/91 | 31-91 | \$989.00 | Shed |
| James Stewart | \$20.00 | 10/5/91 | 33-91 | \$10,000 | Living room |
| James E. Smith | \$20.00 | 10/20/91 | 34-91 | \$26,000 | Living Area |
| Gettys Ridge Club | \$20.00 | 10/22/91 | 35-91 | \$1,000 | Room |
| K. Monihen | \$20.00 | 10/28/91 | 36-91 | \$65,000 | Addition |
| Todd Bailey | \$10.00 | 10/31/91 | 37-91 | \$500.00 | Mobile Home |
| <i>4 Nov</i> Robert Nicholl | \$10.00 | 11/1/91 | 38-91 | \$650.00 | Pole Barn |
| Norman Davis | \$20.00 | 11/5/91 | 39-91 | \$45,000 | House |
| Leroy Koch | \$10.00 | 11/15/91 | 40-91 | \$700.00 | Extend Pole barn |
| Phyllis Rogers | \$20.00 | 12/7/91 | 41-91 | \$7000.00 | Erect Trailr |
| Scott Wilson | \$20.00 | 12/11/91 | 42-91 | \$7800.00 | Erect trailr |
| Geraldine Hagans | \$20.00 | 12/13/91 | 43-91 | \$4500 | Siding |

| NAME | FEE | DATE | PERMIT | VALUE | PURPOSE |
|--------------------------|--|---------|--------|-------------|----------------|
| Arthur Walters | \$20.00 | 1/21/92 | 1-92 | \$3,500.00 | Stoarge Shed |
| M. Dirk Borina | \$20.00 | 2/27/92 | 2-92 | \$38,900.00 | House |
| Dale Lightner | \$20.00 | 2/28/92 | 3-92 | \$1700.00 | Porch addition |
| Douglas Weaver | \$20.00 | 2/29/92 | 4-92 | \$40,000 | House & Garag |
| Eugene L. Barr | \$20.00 | 3/14/92 | 5-92 | \$2,500.00 | Porch & Siding |
| Willard Yoder | \$20.00 | 4/9/92 | 6/92 | \$1,700. | Mobile Home |
| David Kirk | \$20.00 | 4/11/92 | 7-92 | \$20,000.00 | House |
| Arthur & Frances Walters | \$20. | 4/13/92 | 8-92 | \$3,000. | Porch |
| Lee Dean | \$20.00 | 4/13/92 | 9-92 | \$24,000.00 | House |
| Kish Gun Club | \$20.00 | 4/15/92 | 9A-92 | \$29,400.00 | Camp |
| Thomas Sechler | \$20.00 | 5/26/92 | 10-92 | \$30,000. | House Addition |
| Gary Stainer | \$20.00 | 6/4/92 | 11-92 | \$16,000. | Garage & Barn |
| Janet McGrew | \$10.00 | 6/26/92 | 12-92 | \$900.00 | Porch |
| John Clickner | \$20.00 | 6/27/92 | 13-92 | \$50,000.00 | Family Room |
| Sam Bricker | \$20.00 | 7/3/92 | 14-92 | \$80,000. | House |
| Chester Wilson | \$10.00 | 7/7/92 | 15-92 | \$350.00 | Deck |
| Leo & Sharron Sable | \$10.00 | 7/29/92 | 16-92 | \$900.00 | Porch/Deck |
| Harold E. Goshert | \$10.00 | 8/1/92 | 17-92 | \$400.00 | Siding |
| Noel Reese | \$20.00 \$2,500 | 8/7/92 | 18-92 | 3,500 | Shed |
| Albert Hershey | \$10.00 | 8/20/92 | 19-92 | \$400.00 | Deck |
| Joseph Tine | \$20.00 | 8/20/92 | 20-92 | \$50,000 | House |
| Brain Bliss | \$10.00 | 8/21/92 | 21-92 | \$500.00 | Shed/wood sto |
| Homer Wagner | \$20.00 | 8/23/92 | 22-92 | \$2,000.00 | Trailer |
| Dennis Smith | \$20.00 | 8/24/92 | 23-92 | \$34,000.00 | Addition/house |
| Harvey Knepp | \$20.00 | 8/26/92 | 24-92 | \$1,500.00 | Porch |
| Harold E. Keller Sr | \$20.00 | 9/16/92 | 25-92 | \$22,000. | Double Wide |
| Harold E. Keller Jr | \$20.00 | 9/16/92 | 26-92 | \$2,400.00 | Garage |
| Gary/Laura Staines | \$20.00 | 9/21/92 | 27-92 | \$50,000.00 | House |
| Harry Riling | \$10.00 | 10/1/92 | 28-92 | \$400.00 | Deck |

| NAME | FEE | DATE | PERMIT | VALUE | PURPOSE/TAX MA |
|-------------------------------------|---------|-----------|--------|-------------|----------------------|
| Hugh Berg <i>see previous page</i> | \$20.00 | 10/1/92 | 29-92 | \$2,500. | Garage 22 |
| Barry Barco | \$10.00 | 10/15/92 | 30-92 | \$500.00 | Siding on Car |
| Charles Devinney | \$20.00 | 10/16/92 | 31-92 | \$20,000.00 | Bedroom Wing |
| James O'Bryan | \$20.00 | 10/21/92 | 32-92 | \$6,162.00 | Hay Storage |
| James Henry | \$20.00 | 12/3/92 | 33-92 | \$2,500.00 | Storage & Gar |
| Dwight A. Glick | \$20.00 | 12/3/92 | 34-92 | \$1,500.00 | Stoage/Camp |
| Richard Pletcher <i>cher</i> | \$20.00 | 12/3/92 | 35-92 | \$5,000.00 | Garage |
| Richard Pletcher | \$20.00 | 1/4/93 | 1-93 | \$5,000.00 | Garage/Deck |
| Larry Smith | \$20.00 | 1/14/93 | 2-93 | \$13,446. | Garage |
| Samuel Keller <i>holding permit</i> | \$20.00 | 1/19/93 | 3-93 | \$1,500. | Mobile Home |
| <i>Ext</i> Don Gibboney | \$10.00 | 2/4/93 | 4-93 | \$1,000. | Extend Store |
| Thomas Wilson | \$20.00 | 2/5/93 | 5-93 | \$15,000. | Mobile Home |
| Tom & Jo Merrell | \$20.00 | 2/9/93 | 6-93 | \$60,000. | Extend House |
| <i>Mark</i> Whipple Dam Store | \$10.00 | 3/2/93 | 7-93 ✓ | \$850. | Extend Store |
| Betty Younker | \$10.00 | 4/5/93 | 8-93 ✓ | \$1,000 | Soffit etc |
| Wilber Foster | No Fee | 4/5/93 | 9-93 ✓ | None | Demolish Mobile Home |
| P. Gavazzi | \$20.00 | 5/7/93 | 10-93 | \$2000.00 | Tool Shed |
| Stoney Lonesome | \$20.00 | 5/8/93 | 12-93 | \$1200.00 | Deck |
| Lee Knode Jr | \$20.00 | 5/11/93 | 13-93 | \$1,200.00 | Deck & Siding |
| Podger Keller | \$20.00 | 5/21/93 | 15-93 | \$6000.00 | Garage & Room |
| Roland Yoder | \$20.00 | May/18/93 | 14-93 | \$6000. | Milkhouse |
| Donald Reeve | \$20.00 | 5/21/93 | 14-93 | \$15,000 | Camp |
| Gary/Chris Wilson | \$20.00 | 5/25/93 | 17-93 | \$1,500.00 | Barn |
| William Stanbrough | \$10.00 | 6/14/93 | 18-93 | \$935.00 | Porch/Deck/s |
| Larry Smith | \$20.00 | 6/16/93 | 19-93 | \$52,401. | Extend House |
| Seth Richards | \$20.00 | 6/16/93 | 20-93 | \$1,200. | Stoareg Shed |
| Jean Dickson | \$20.00 | 5/8/93 | 11-93 | \$10,000. | Add Room |
| Patricia Rosdil | \$20.00 | 6/21/93 | 21-93 | \$68,000. | Erect House |

| NAME | | FEE | DATE | PERMIT | VALUE | PURPOSE/TAX |
|-----------------------------|-------|---------|----------|--------|-------------|-----------------------|
| Keller, Elwood | | \$20.00 | 8/5/93 | 22-93 | \$2000.00 | Roof, Deck and Garage |
| Gibboney, Steve | | \$20.00 | 8/7/93 | 23-93 | \$15,000.00 | Garage |
| Elliott, James | | \$20.00 | 8/17/93 | 24-93 | \$20,000.00 | Build Camp |
| Bliss, Brian | | \$10.00 | 8/21/93 | 25-93 | \$650.00 | Add Bedroom |
| Pouch, Dennis | | \$10.00 | 8/22/93 | 26-93 | \$100.00 | Shed |
| R. Hockenberry | | \$20.00 | 8/24/93 | 27-93 | \$140,000. | House |
| D. Maddox | | \$20.00 | 9/8/93 | 28-93 | \$4300.00 | Deck |
| Roland Yoder | | \$20.00 | 13/9/93 | 29-93 | \$4,000.00 | Heifer Pen |
| Samuel Keller | | \$10.00 | 9/24/93 | 30-90 | \$1,000.00 | Mobile Home |
| Twin Pine Lodge | check | \$20.00 | 11/22/93 | 31-93 | \$10,000. | Alter |
| Richard Rudy | check | \$20.00 | 11/20/93 | 32-93 | \$2,000. | Picnic Shelter |
| Thomas Wilson | cash | \$20.00 | 11/20/93 | 33-93 | \$1,500. | Extend Shed |
| Judith Fleck | check | \$20.00 | 12/6/93 | 34-93 | \$1,058 | Porches |
| James W. Croyle | cash | \$20.00 | 12/14/93 | 35-93 | \$20,000. | Extend House |
| Finish 1993 | | | | | | |
| William Foster | cash | \$10.00 | 4/6/94 | 36-94 | \$300.00 | Shed Addition |
| Stone Creek Fire Hall No. 1 | | | 4/14/94 | 37-94 | \$2,000.00 | Extension |
| Jr. Eschbach | cash | \$10.00 | 4/22/94 | 38-94 | \$1,000.00 | Porch/Shed |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|-------------------|------|---------|----------|--------|--------------|--------------|
| Drew Tomlinson | Chec | \$20.00 | 12/30/93 | 1- | \$20,000.00 | Addition |
| Ennisville Church | Chec | \$20.00 | 2/19/94 | 2-94D | Demolition | ----- |
| Georg Sunderland | Chec | \$20.00 | 2/19/94 | 3-94 | \$5,000.00 | Addition |
| 7 March 1994 | | | | | | |
| William Foster | CA | \$10.00 | 4/6/94 | 1-94B | \$300.00 | Shed |
| Stone Creek Fire | NA | ----- | 4/14/94 | 2-94B | \$2500.00 | Addition |
| J. Eschenbach | CA | \$10.00 | 4/22/94 | 3-94B | \$500.00 | Porch |
| Richard Boonie | Chec | \$20.00 | 5/14/94 | 4-94 | \$9,800 | Porch/siding |
| Kish Bank | Chec | \$70.00 | 5/17/94 | 5-94 | \$109,000. | Bank |
| Stephen Black | Chec | \$60.00 | 5/24/94 | 6-94 | \$69,000.00 | House |
| Lonnie Dawes | Chec | \$70.00 | 5/24/94 | 7-94 | \$131,000. | House |
| Douglas Maddox | Chec | \$40.00 | 5/24/94 | 8-94 | \$25,000. | Addition |
| R. Schaeffer | Chec | \$60.00 | 6/2/94 | 9-94 | \$75,000. | House |
| Walnut Acre | Chec | \$15.00 | 6/3/94 | 10-94 | \$800.00 | Shed |
| Larry Narehood | Chec | \$30.00 | 6/8/94 | 11-94 | \$18,000. | Garage |
| Daniel B. Wilson | Chec | \$20.00 | 6/20/94 | 12-94 | \$10,000. | Mobile Home |
| Mary Randolph | Cash | \$15.00 | 6/28/94 | 13-94 | \$300. | Siding |
| Ted Couch | Cash | \$15.00 | 7/11/94 | 14-94 | \$300.00 | Shed |
| Sam Keller Jr | Cash | \$50.00 | 7/14/94 | 15-94 | \$37,000.00 | Double wide |
| S. Stoltzfus | Chec | \$15.00 | 7/27/94 | 16-94 | \$5,500.00 | Porch |
| D.S. Feahley | Chec | \$40.00 | 7/31/94 | 17-94 | \$32,000.00 | Doublewide |
| George Vahoviak | Chec | \$70.00 | 8/10/94 | 18094 | \$110,000.00 | House |
| Daryl Stickler | Chec | \$20.00 | 8/11/94 | 19-94 | \$7000.00 | House |
| Leroy Koch | Cash | \$20.00 | 8/13/94 | 20-94 | \$9000.00 | House |
| Sondra Armstrong | Chec | \$20.00 | 8/19/94 | 21-94 | \$4600.00 | Broch/siding |
| Keith Hollinshead | Chec | \$30.00 | 8/19/94 | 22-94 | \$30.00 | House |
| Scott Wilson | Chec | \$15.00 | 8/21/94 | 23-94 | \$500.00 | Shed |
| Glenn Hawbaker | Chec | \$40. | 8/27/94 | 24-94 | \$25,000.00 | Kitchen |
| Daniel Tanner | Cash | \$20.00 | 9/4/94 | 25-94 | \$1600.00 | Shed/deck |
| Tom Wilson | Cash | \$60.00 | 9/15/94 | 26-94 | \$50,000.00 | House |
| Hawn (White) | Cash | \$20.00 | 9/16/94 | 27-94 | \$1,500.00 | Trailer |
| Corvin, Anita | Chec | \$20.00 | 9/21/94 | 28-94 | \$1,000.00 | Camp |
| David Freeman | Chec | \$20.00 | 9/21/94 | 29-94 | \$7,000.00 | Bedroom |
| Annette Givler | Chec | \$60.00 | 9/25/94 | 30-94 | \$75,000.00 | Bedroom, etc |
| Newall Crownover | Chec | \$20.00 | 10/13/94 | 31-94 | \$4,000.00 | Car Port |
| Paul Powell | Cash | \$20.00 | 10/18/94 | 32-94 | \$1,700.00 | Shed |
| Bruce Telega | Chec | \$20.00 | 10/18/94 | 33-94 | \$1,500.00 | Deck |
| John Couch | Chec | \$50.00 | 10/19/94 | 34-94 | \$45,000.00 | Double Wide |
| William White | Chec | \$20.00 | 11/7/94 | 35-94 | \$9,050.00 | Garage |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|-------------------------|------|---------|----------|--------|--------------|--------------|
| Harvey Knepp | CA | \$60.00 | 1/9/95 | 1-95 | \$65,000.00 | Double wide |
| Van Dommelen | CH | \$15.00 | 1/30/95 | 2-95 | \$500.00 | Deck |
| L. McKinney | CA | \$20.00 | 1/30/95 | 3-95 | \$18,900 | Mobilehome |
| Glenn Bailey | CK | \$20.00 | 2/11/95 | 4-95 | \$3,000.00 | Mobile Home |
| Dayton Hostetter | CK | \$30.00 | 2/28/95 | 5-95 | \$16,500.00 | Mobile Home |
| Tonna-Rae Palston | CK | \$60.00 | 3/11/95 | 6-95 | \$62,000.00 | House |
| Louis Veiler | CK | \$30.00 | 3/21/95 | 7-95 | \$18,000.00 | Extend roof |
| Ralph Schlegelmilch | CK | \$20.00 | 3/21/95 | 8-95 | \$8,000.00 | Pestor |
| T. Stanbrough | CK | \$15.00 | 3/22/95 | 9-95 | \$900.00 | Garport |
| Gary Morland | CK | \$60.00 | 3/30/95 | 10-95 | \$70,000.00 | House |
| Lewis E. McCarty | CA | \$40.00 | 4/4/95 | 11-95 | \$35,963.00 | Doublewide |
| J. Edward Rudy | CA | \$20.00 | 4/17/95 | 12-95 | \$1,650.00 | Storage shed |
| Dale Buchanan | CH | \$40.00 | 4/18/95 | 13-95 | \$40,000.00 | Cabin |
| James Condon | CH | \$20.00 | 4/19/95 | 14-95 | \$4,000.00 | Greenhouse |
| Christina Guyer | CA | \$20.00 | 6/6/95 | 15-95 | \$10,000.00 | Mobile Home |
| Richard Horner | CA | \$20.00 | 6/9/95 | 16-95 | \$2,500.00 | Shed |
| David Corwin | CK | \$70.00 | 6/22/95 | 17-95 | \$170,000.00 | House |
| Carl Bickett | CK | \$20.00 | 6/24/95 | 18-95 | \$1290.00 | Repairs-etc |
| Frank Dean | CK | \$15.00 | 7/11/95 | 19-95 | \$600.00 | Deck |
| Jay Yoder | CK | \$20.00 | 8/5/95 | 20-95 | \$5,000.00 | Shop |
| Eliz. Wojdylak | CK | \$20.00 | 8/5/95 | 21-95 | \$8,000.00 | Mobilehome |
| L. Lucabaugh | CK | \$30.00 | 8/5/95 | 22-95 | \$21,000.00 | Extend/etc |
| Marjorie Rudy | CA | \$15.00 | 8/18/95 | 23-95 | \$200.00 | Deck |
| Kevin Monihen | CH | \$15.00 | 9/1/95 | 24-95 | \$1,000.00 | Shed |
| Seth Richards | CH | \$20.00 | 9/1/95 | 25-95 | \$15,000.00 | Barn |
| Winchester Club | | | | | | |
| S. Wensel | CK | \$70.00 | 9/11/95 | 26-95 | \$106,000.00 | Rebuild |
| Lee Knode & Wm. Summers | CK | \$20.00 | 9/30/95 | 27-95 | \$10,000.00 | Camp |
| Dirk Boring | CH | \$60.00 | 10/24/95 | 28-95 | \$60,000.00 | House |
| Gregory McKinney | CHAA | \$20.00 | 10/29/95 | 29-95 | \$2,900.00 | MobileHome |
| John Randolph | CA | \$20.00 | 11/1/95 | 30-95 | \$1,900.00 | ColdFrame |
| Tim Grove | CK | \$15.00 | 11/14/95 | 31-95 | \$900.00 | Repairs |
| Rodney Scaeffre | CK | \$20.00 | 11/6/95 | 32-95 | \$1,000.00 | Barn |
| Michael Koch | CA | \$15.00 | 12/20/95 | 33-95 | \$500.00 | Shed |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|------------------------|-----|---------|-----------|--------|--------------|---------------|
| E. Wojdylak | CK | \$20.00 | 1/12/96 | 1-96 | \$1,500.00 | Shed |
| Kenneth Miller | CK | \$60.00 | 2/16/96 | 2-96 | \$50,000.00 | Camp |
| George Vahoviak | CK | \$20.00 | 2/24/96 | 3-96 | \$4,000.00 | Barn |
| Oscar Ryen | CA. | \$20.00 | 4/25/96 | 4-95 | \$9,500.00 | Cottage |
| Tom Sanker | | | | | | |
| Tom & Jerry Camp | CA | \$20.00 | 5/4/95 | 5-95 | \$1,200.00 | Bedroom |
| Eliz. Wojdylak | CK | \$20.00 | May 9, 96 | 6-96 | \$8,875.00 | Pole Shed |
| Steve Fleck | CK | \$20.00 | May 9, 96 | 7-96 | \$1,500.00 | Bedroom |
| Peter Hadley | CK | \$70.00 | 23 May 96 | 8-96 | \$150,000 | House |
| Pat Wilson | CK | \$15.00 | 3 June 96 | 9-96 | \$600.00 | Storage Shed |
| Tim Peachy | X | None | 4 June 96 | 10-96 | NA | Demolish Bldg |
| Dixon, Brett | CK | \$20.00 | 6/6/96 | 11-96 | \$15,000.00 | Bedroom |
| Keller, Rodger | CK | \$60.00 | 6/24/96 | 12-96 | \$80,000.00 | House |
| Saunders, Richard | CK | \$20.00 | 6/26/96 | 13-96 | \$7,000.00 | Garage |
| Miller, Jay | CK | \$20.00 | 6/27/96 | 14-96 | \$1,200.00 | Shed |
| Dean Laub | CA. | \$20.00 | 6/28/96 | 15-96 | \$2,500.00 | Room |
| Glenn Peachy | CK | \$20.00 | 7/1/96 | 16-96 | \$15,000.00 | Cabin |
| Ricky Watt | CK | \$20.00 | 7/17/96 | 17-96 | \$15,000.00 | Room & Deck |
| Wm & Betty White | CK | \$70.00 | 7/23/96 | 18-96 | \$200,000.00 | House |
| Wilber Foster | CA | \$15.00 | 8-3-96 | 19-96 | \$400.00 | Shed |
| Mary Grove | CK | \$15.00 | 8-4-96 | 20-96 | \$500.00 | Shed |
| James Boring | CK | \$15.00 | 8-11-96 | 21-96 | \$700.00 | Porch |
| Steve Burbee | CK | \$70.00 | 8-23-96 | 23-96 | \$280,000.00 | House |
| Ward Studebaker | CK | \$15.00 | 8-22-96 | 22-96 | \$1,000.00 | Deck & Carpor |
| William Brumbaugh | CK | \$20.00 | 9-9-96 | 24-96 | \$2,250 | Garage |
| Bertha Riling | CK | \$15.00 | 9/11/96 | 24-96 | \$500.00 | Extend Barn |
| Allan Diehl | CK | \$15.00 | 11/15/96 | 26-96 | \$1342.99 | Storage |
| Russell Koch | CK | \$30.00 | 10/14/96 | 27-96 | \$20,000.00 | Trailer |
| Michael Carowich | CA | \$20.00 | 12/5/96 | 28-96 | \$5,000.00 | Garage |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|----------------------|-----|-----------|-----------|--------|--------------|--------------|
| Drew Tomlinson | CK | \$20.00 | 1/7/97 | 1-97 | \$15,000.00 | Kitchen |
| Anna Stanbrough | CK | \$20.00 | 3/1/97 | 2-97 | \$1,500 | Shed |
| Richard Fletcher | CK | \$20.00 | 3/4/97 | 3-97 | \$1,000.00 | Porch |
| Craig Brossman | CK | \$20.00 | 3/15/97 | 4-97 | \$10,000.00 | Restore |
| Ivan Kauffman | CK | \$20.00 | 3/20/97 | 5-97 | \$7,000.00 | Camp |
| Robert Guyer | CK | \$200.00 | 3/25/97 | 6-97 | \$2,000.00 | Garage |
| S. Wojdylak | CK | \$20.00 | 4/2/97 | 7-79 | \$8,000.00 | Porch |
| Suzanne Morland | CK | \$20.00 | 4/9/97 | 8-97 | \$12,000.00 | Horse Barn |
| Daryl Stickler | CK | \$20.00 | 5/1/97 | 9-97 | \$7,000.00 | HOUSE/renew |
| William Stout | CK | \$70.00 | 5/2/97 | 10-97 | \$310,000.00 | House |
| Warren Long | CA | \$20.00 | 5/3/97 | 11-97 | \$15,000.00 | Addition |
| James Smolko | CK | \$15.00 | 5/3/97 | 12-97 | \$800.00 | Shed |
| Don Gibboney | CK | \$20.00 | 5/8/97 | 13-97 | \$6,300.00 | Porch |
| Mary Grove | CK | \$20.00 | 5/12/97 | 14-97 | \$8,900.00 | Laundry |
| Tom Wilson | CA | \$60.00 | 5/29/97 | 15-97 | \$50,000.00 | House/renew |
| David Koch | CK | \$20.00 | 5/31/97 | 16-97 | \$15,000.00 | Mobilehome |
| Pat Wilson | CK | \$15.00 | 6/17/97 | 17-97 | \$750.00 | Pavilion |
| George Vahoviak | CK | \$20.00 | 6/28/97 | 18-97 | \$2,000.00 | Equip Shed |
| Larry Narehooh | CA | \$20.00 | 7/22/97 | 19-97 | \$5,000.00 | Garage |
| Steve Stoltzus | CK | \$60.00 | Aug 8 -97 | 20-97 | 53,000.00 | Shop/Green |
| Kevin Boonie | CK | \$20.00 | Aug 9/97 | 21-97 | \$10,000.00 | Mobile Home |
| Randolph/Rush | CK | \$20.00 | 8/15/97 | 22-97 | \$7,500.00 | Barn |
| George Sunderland | CK | \$20.00 | 8/28/97 | 23-25 | \$3,000.00 | Roof On Deck |
| Dennis McClure | CK | \$20.00 | 9/15/97 | 24-97 | \$5,000.00 | Bedroom |
| Chester Wilson | CK | \$20.00 | 9/21/97 | 25-97 | \$6,000.00 | Mobile Home |
| Scott Wilson | CK | \$40.00 | 9/22/97 | 26-97 | \$35,000.00 | House |
| Bruce Kirkpatrick | CA | \$20.00 | 10/11/97 | 27-97 | \$2500.00 | Bedroom/shed |
| Hank Berg (A-1) | CK | \$20.00 | 10/14/97 | 28-97 | \$2,000.00 | Shed |
| Barry Barco | CA | \$15.00 | 10/15/97 | 29-97 | \$950.00 | Shed |
| Brian Bliss | CK | \$15.00 | 10/16/97 | 30-97 | \$200.00 | Pole Shed |
| Quane Coy | CK | \$20.00 | 10/19/97 | 31-97 | \$1,5000.00 | Shed |
| ENVIRONMENTAL CONST. | | CANCELLED | | 32-97 | CANCELLED | |
| Frank Dean | CK | \$15.00 | 10/23/97 | 33-97 | \$800.00 | Pole Shed |
| Daniel Wilson | CK | \$15.00 | 11/11/97 | 34-97 | \$400.00 | Shed |
| Barbara Wilson | CK | \$20.00 | 11/11/97 | 35-97 | \$15,200.00 | Mobile Home |
| Andrew Jone | CA | \$15.00 | 12/16/97 | 36-97 | \$90.00 | Shed |

| NAME 1998 | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|--------------------|-----|---------|----------|--------|--------------|---------------|
| Michael Stanbrough | CK | \$20.00 | 1/6/98 | 1-98 | \$1,500.00 | Pole Shed |
| Jeff Bierly | CK | \$70.00 | 1/28/98 | 2-98 | \$14,000.00 | House |
| Gerome Sunderland | CK | \$20.00 | 2/4/98 | 3-98 | \$2,000.00 | Deck/steps |
| Bill Stanbrough | CK | \$15.00 | 2/28/98 | 4-98 | \$500.00 | Shed |
| Eagle Excavation | CK | \$20.00 | 3/4/98 | 5-98 | \$2,000.00 | Mobile Home |
| Forrest Mills | CA | \$20.00 | 3/11/98 | 6-98 | \$2,000.00 | Carpport |
| Donald P Walters | CK | \$15.00 | 3/20/98 | 7-98 | \$600.00 | Porch&roof |
| Richard Horner | CK | \$30.00 | 3/21/98 | 8-98 | \$20,000.00 | Carace |
| Harvey Wagner | CA | \$20.00 | 4/13/98 | 9-98 | \$5,000.00 | Basement |
| Getty Ridge Rod | CK | \$20.00 | 4/23/98 | 10-98 | \$4,000.00 | Porch |
| Robert Enyeart | CA | \$20.00 | 5/11/98 | 11-98 | \$10,000.00 | Pole Barn |
| Daniel Kearns | CK | \$20.00 | 5/15/98 | 12-98 | \$5,000.00 | Camp |
| Monty Claar | CK | \$70.00 | 6/25/98 | 13-98 | \$125,000.00 | House |
| Russel Person | CK | \$70.00 | 6/25/98 | 14-98 | \$135,000.00 | House |
| Jack Price | CK | \$15.00 | 7/4/98 | 15-98 | DEMOLISH | Mobilehome |
| Jeffrey Shoemaker | CK | \$20.00 | 7/11/98 | 16-98 | Room addon | \$4,000.00 |
| Cindy Lauer | CK | \$70.00 | 7/11/98 | 17-98 | \$101,000.00 | Home |
| Judy Keller | CA | \$15.00 | 7/28/98 | 18-98 | \$800.00 | Porch |
| Robert Lynch | CK | \$20.00 | 7/29/98 | 19-98 | \$10,000.00 | Patio/siding |
| Kevin Boonie | CK | \$20.00 | 8/20/98 | 20-98 | \$1,000.00 | Shed |
| Glenn Hawbaker | CK | \$20.00 | 8/21/98 | 21-98 | \$10,000.00 | Garage |
| Jim Stewart | CK | \$20.00 | 8/27/98 | 22-98 | \$33500.00 | Pole Barn |
| Ken Koch | CK | \$60.00 | 8/31/98 | 22-19 | \$50,000.00 | Doublewide |
| Richard Zeallor | CK | \$30.00 | 9/3/98 | 23-14 | \$20,000.00 | Addition |
| Larry Smith | CK | \$15.00 | 9/4/98 | 24-98 | Demolish | Trailer |
| Pauline Baker | CA | \$20.00 | 9/11/98 | 25-98 | \$3,000.00 | Garage |
| Gary O'Bryan | CK | \$20.00 | 9/14/98 | 26-98 | \$10,000.00 | Equip. Shed |
| Leroy Koch | CA | \$15.00 | 9/24/98 | 27-98 | \$400.00 | Garage-Ext. |
| Angela Hawn | CK | \$30.00 | 9/28/98 | 28-98 | \$23,800.00 | Extend house |
| Henry Berg | CK | \$20.00 | 10/13/98 | 29-98 | \$10,000.00 | Extend House |
| J.E. Rudy | CA | \$20.00 | 10/30/98 | 30-98 | \$12,000.00 | Garage |
| David Keller | CK | \$20.00 | 11/2/98 | 31-98 | \$3,500.00 | Porch-closein |
| Jesse Stickler | CA | \$15.00 | 11/3/98 | 32-98 | \$500.00 | Mobile Home |
| Wesley Boonie | CA | \$20.00 | 11/4/98 | 33-98 | \$1,595.00 | Carpport |
| Scott Pletcher | CK | \$20.00 | 11/8/98 | 34-98 | \$5,000.00 | Garage |
| John Albright | CK | \$30.00 | 11/20/98 | 35-98 | \$17,300.00 | Addition |
| Dwight Glick | CK | \$15.00 | 11/24/98 | 36-98 | \$900.00 | Cuthouse |

| NAME 1999 | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|-------------------|-----|---------|-----------|--------|--------------|--------------|
| Pauline Weaver | CK | \$20.00 | 2/15/99 | 2-99 | \$3,500.00 | Porch |
| Huntingdon School | CK | \$70.00 | 2/15/99 | 1-99 | \$1,090,069. | Addition |
| Tom Loser/Grove | CK | \$70.00 | 2/24/99 | 3-99 | \$100,000.00 | Addition |
| Donald Lichtner | CK | \$60.00 | 3/22/99 | 4-99 | \$80,000.00 | House |
| Bill Stanbrough | CK | \$15.00 | 3/23/99 | 5-99 | \$300.00 | Porch |
| Richard Saunders | CK | \$30.00 | 30/Mar/99 | 6-99 | \$18,000.00 | Room |
| Daryl Sttickler | CK | \$15.00 | 3/31/99 | 7-99 | \$300.00 | MobileHome |
| Jr. Exchenbach | CA | \$15.00 | 4/16/99 | 8-99 | \$400.00 | Shed |
| Michael Lorenz | CK | \$30.00 | 4/20/99 | 9-99 | \$19,000.00 | Addition |
| David/Ruth Koch | CK | \$50.00 | 5/1/99 | 10-99 | \$40,000.00 | Doublewide |
| Sue Hess | CA | \$20.00 | 5/13/99 | 11-99 | \$1,000.00 | Garage |
| Samuel Keller | CA | \$20.00 | 5/15/99 | 12-99 | \$3,500.00 | Shed |
| Charles Yost | CK | \$20.00 | 5/22/99 | 13-99 | \$2,000.00 | Room |
| Kenneth Kauffman | CA | \$15.00 | 5/25/99 | 14-99 | \$300.00 | Extend camp |
| Douglas Horst | CK | \$40.00 | 6/17/99 | 15-99 | \$35,000.00 | Extend House |
| Robert King | CK | \$40.00 | 6/21/99 | 16-99 | \$2,000.00 | Roof |
| Matt King | CK | " | 6/21/99 | 17-99 | \$10,000.00 | Garage |
| Harry Lehman | CK | \$50.00 | 6/25/99 | 18-99 | \$40,000.00 | Addition |
| James Peters | CK | \$20.00 | 7/14/99 | 19-99 | \$7,300.00 | Camp |
| Dan Wilson | CK | \$15.00 | 7/17/99 | 20-99 | \$500.00 | Shed |
| James Huckabaa | CA | \$20.00 | 7/31/99 | 21-99 | \$10,000 | Addition |
| Robert E Cuyer | CA | \$15.00 | 8/4/99 | 22-99 | \$25000 | Canopy |
| Melissa Foster | CK | \$15.00 | 8/7/99 | 23/99 | \$500.00 | Porch |
| A-1 Auto | CK | \$20.00 | 8/25/99 | 24-99 | \$2,000.00 | Garageport |
| Donna Counc | NA | NA | 8/31/99 | 25-99 | NA | Demolition |
| Earle Hawn | CK | \$20.00 | 9/1/99 | 26-99 | \$9,000.00 | Rood/deck |
| Koch Kenneth | CK | \$15.00 | 1/9/99 | 27-99 | \$1,000.00 | Addition |
| Brain Bliss | CK | \$60.00 | 9/2/99 | 28-99 | \$50,000.00 | House |
| Barbara Wilson | CK | \$15.00 | 9/29/99 | 29-99 | \$500.00 | Porch |
| Jan Cramer | CK | \$20.00 | 10/2/99 | 30-99 | \$8,000.00 | Shed |
| Timothy Hanna | CK | \$70.00 | 10/8/99 | 31-99 | \$175,000.00 | House |
| Richard Boonie | CK | \$15.00 | 10/25/99 | 32-99 | \$400.00 | Porch Roof |
| Stephen Stoltzfus | CA | \$30.00 | 10/30/99 | 33-99 | \$20,000.00 | Officed |
| Pauline Weaver | CK | \$20.00 | 11/10/99 | 34-99 | \$6,000.00 | Carce |
| David Houtz | CK | \$20.00 | 11/22/99 | 35-99 | \$1,528.70 | Carport |
| Joe Merrell | CK | \$30.00 | 11/22/99 | 36-99 | \$19,500.00 | Garage |
| Gloria Sendzik | CK | \$60.00 | 12/1/99 | 37-99 | \$58,000.00 | Doublewide |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|-------------------|-----|---------|----------|--------|----------------|---------------|
| William Tover | CA | \$20.00 | 2-17-00 | 00-1 | \$1,00.00 | Mobile Home |
| William Stout | CK | \$40.00 | 2-19-00 | 00-2 | \$29,000.00 | Barn |
| Joseph Foster | CK | \$20.00 | 3-1-00 | 00-3 | \$7,000.00 | Mobile Home |
| John P. Yonker | CK | \$50.00 | 3-14-00 | 004 | \$50,000.00 | Sidewalk |
| Patrick Simmet | CK | \$20.00 | 3/31/00 | 00-5 | \$2,000.00 | Porch |
| Douglas Peid | CK | \$60.00 | 4/8/00 | 00-6 | \$65,000.00 | House |
| Ruby Dunlap | CA | \$40.00 | 4/17/00 | 00-7 | \$35,000.00 | Garage |
| Jesse Rush | CK | \$30.00 | 4/24/00 | 00-8 | \$20,000.00 | Porch |
| Norman Keller | CK | \$60.00 | 4/30/00 | 00-9 | \$67,800.00 | Doublewide |
| Robert Weaver | CK | \$50.00 | 5/4/00 | 00-10 | \$40,000.00 | Workshop |
| Mark Borina | CK | \$60.00 | 5/24/00 | 00-11 | \$80,000.00 | House |
| Jack Price | CK | \$20.00 | 5/27/00 | 00-12 | \$1,599.00 | Shed |
| William Brumbaugh | CA | \$20.00 | 6/1/00 | 00-13 | \$2,500.00 | Mobile Home |
| Dale Lichtner | CA | \$15.00 | 6/2/00 | 00-14 | \$200.00 | Shed |
| Ferry Miller | CA | \$20.00 | 6/13/00 | 00-15 | \$1,500.00 | Shed |
| Debra Kerr | CK | \$70.00 | 6/15/00 | 00-16 | \$190,000.00 | House |
| Charles Siedler | CK | \$40.00 | 6/19/00 | 00-17 | \$30,000.00 | Mobile Home |
| James Morris | CK | \$20.00 | 6/24/00 | 00-18 | \$4,500.00 | Bedroom |
| J. Robert Jounker | CK | \$15.00 | 7/1/00 | 00-19 | \$900.00 | Deck |
| William Foster | CK | \$15.00 | 7/6/00 | 00-20 | \$750.00 | Shed |
| Jesse Stickler | CK | \$20.00 | 7/10/00 | 00-21 | \$9000.00 | Mobilehome |
| Poy Augenstein | CK | \$70.00 | 7/21/00 | 00-22 | \$235,000.00 | House |
| Jeanne Price | CK | \$70.00 | 7/22/00 | 00-23 | \$135,000.00 | House |
| John Hewett | CK | \$20.00 | 7/27/00 | 00-24 | \$12,000.00 | Shed |
| Melissa Foster | CA | \$20.00 | 8/30/00 | 00-25 | \$1,500.00 | Room |
| Theodore Kock | CK | \$20.00 | 8/31/00 | 00-26 | \$2,000.00 | Barn |
| Joe Baker | CA | \$20.00 | 9/18/00 | 00-27 | \$ 3,000.00 | Mobile Home |
| Karl Aronson | CK | \$20.00 | 9/20/00 | 0028 | \$10,000.00 | Workshop |
| Karl Aronson | NA | NA | 9/20/00 | 0029 | NA | Demolish Barn |
| Donald DeArment | CK | \$20.00 | 9/25/00 | 00-30 | \$15,000.00 | Camp |
| William Koch | CA | \$20.00 | 10/3/00 | 00-31 | \$6,600.00 | Siding |
| Don Gibboney | CA | \$15.00 | 10/3/00 | 00-32 | \$700.00 | Deck |
| Paul Powell | CK | \$15.00 | 10/25/00 | 00-33 | \$900.00 | Porch |
| Mark McLaughlin | CK | \$70.00 | 10/27/00 | 00-34 | \$186,000.00 | House |
| A-1 Auto | CK | \$20.00 | 11/17/00 | 00-35 | \$1,000.00 | Mobile Home |
| Michael Yoder | CK | \$20.00 | 12/4/00 | 00-36 | \$2,000.00 | Storage Unit |
| | | | | | \$1,248,549.00 | |

| NAME | CA. | FEE | DATE | PERMIT | VALUE | PURPOSE |
|----------------------|-----|--|---------|--------|--------------|--------------------|
| Raymond Tussey | CK | \$60.00 | 1/6/01 | 00-1 | \$65,000.00 | House |
| Tuckaway Tree Farm | CK | \$50.00 | 1/11/01 | 01-02 | \$46,000.00 | Barn |
| Thomas Henwood | CK | \$70.00 | 1/11/01 | 01-3 | \$400,000.00 | House |
| Donald Powell | CA | \$15.00 | 2/14/01 | 01-4 | NA | Demolition of Camp |
| Allan Diehl | CK | \$60.00 | 2/27/01 | 01-5 | \$65,000.00 | Addition |
| Kevin Boonie | CK | \$60.00 | 3/31/01 | 01-6 | \$52,000.00 | House |
| Joel Menuetz | CK | \$40.00 | 4/10/01 | 01-7 | \$500.00 | Deck |
| | | (Since this was delinquent a fine was added) | | | | |
| Dennis Rief | CK | \$20.00 | 5/17/01 | 01-8 | \$2,500.00 | Sheds |
| Stephen Stoltzfus | CK | \$15.00 | 5/1/01 | 01-9 | \$5,000.00 | Garage |
| Brian Bliss | CK | \$20.00 | 5/5/01 | 01-10 | \$1,000.00 | Porch/Pavillion |
| Stoney Lonesome Camp | CA | \$20.00 | 5/9/01 | 01-11 | \$1,100.00 | Pavillion |

Law Office
HARVEY B. REEDER

Exhibit 19

504 Penn Street
Huntingdon, PA 16652

Phone: 814/643-3821

May 1, 2000

65 PS
1053

David B. Corneal, Esquire
1445 West College Avenue
State College, PA 16801

Re: John B. Hewett, Jr. and JoAnn F. Smith

Dear Mr. Corneal:

I am in receipt of your fax dated April 28, 2000. Please be advised that I represent John B. Hewett, Jr. and JoAnn F. Smith.

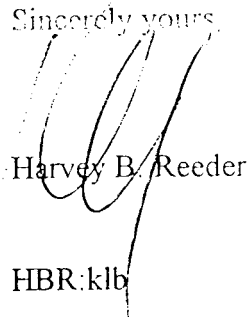
It is my understanding that there are some difficulties with the Township in obtaining subdivision approval. It is quite obvious to me that final settlement will not be able to take place on or before June 30, 2000.

My clients are not interested in any addendum to this Agreement and desire that the Agreement be terminated.

Accordingly, we would request that you return to us the down payment of \$4,000.00, together with the monthly payments totaling \$3,000.00 which have been made since November 7, 1999. We are returning the original map which you left with Mr. Hewett.

Should you have any questions, please feel free to contact me.

Sincerely yours,


Harvey B. Reeder

HBR:klb

Enclosure

cc: Mr. John B. Hewett, Jr.

Exhibit 20

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

DAVID B. CORNEAL AND SANDRA Y.
CORNEAL,
Plaintiffs

VS

NO. 1:00-CV-1192

JACKSON TOWNSHIP, Huntingdon
County, Pennsylvania, W. THOMAS
WILSON, Individually and in his
Official Capacity as Supervisor
of Jackson Township, MICHAEL
YODER, Individually and in his
Official Capacity as Supervisor
of Jackson Township, RALPH
WEILER, Individually and in his
Official Capacity as Supervisor
of Jackson Township, BARRY PARKS,
Individually and in his Official
Capacity as Sewage Enforcement
Officer of Jackson Township,
DAVID VAN DOMMELEN, Individually
and in his Official Capacity as
Building Permit Officer, ANN I.
WIRTH, Individually and in her
Official Capacity as Secretary
of Jackson Township, and
LARRY NEWTON, Individually and in
his Official Capacity as Solicitor:
to Jackson Township,
Defendants

JURY TRIAL DEMANDED

DEPOSITION OF: TERRY WILLIAMS, ESQUIRE

TAKEN BY: DEFENDANTS

BEFORE: NICOLE L. ZIMMERMAN
NOTARY PUBLIC

DATE: JULY 10, 2001, 10:08 A.M.

PLACE: THE DAYS INN
240 SOUTH PUGH STREET
STATE COLLEGE, PA 16801

MLP REPORTING, INC. (570) 748-1041

INDEX

BY DEFENDANTS

EXAMINATION

TERRY WILLIAMS, ESQ.
By Mr. Sherr
By Ms. Montgomery

4, 63
60

EXHIBITS

WILLIAMS' EXHIBITS

MARKED

PRODUCED

No. 1 - Notice of Deposition and
and Subpoena

4

5

No. 2 - Court Order

12

12

No. 3 - Letter (11/10/2000)

27

27

No. 4 - Letter (2/5/2001)

54

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MLP REPORTING, INC. (570) 748-1041

APPEARANCES:

ECKERT SEAMANS
BY: BRIDGET MONTGOMERY, ESQUIRE
LESLIE A. MALADY, ESQUIRE
213 Market Street, Eighth Floor
Harrisburg, PA 17101
FOR - PLAINTIFFS

MAYERS, MENNIES & SHERR, LLP
BY: ANTHONY R. SHERR, ESQUIRE
3031 Walton Road
Building A, Suite 330
P.O. Box 1547
Blue Bell, PA 19422-0440

FOR - JACKSON TOWNSHIP, MR. WILSON,
MR. YODER, MR. WEILER, MR. PARKS,
MR. VAN DOMMELEN & MS. WIRTH

ALSO PRESENT: DAVID CORNEAL

STIPULATION

It is hereby stipulated by and between
counsel for the respective parties that sealing,
certification, and filing are waived, and that all
objections except as to the form of the question are
reserved to the time of trial.

TERRY WILLIAMS, ESQ., called as a witness,
being sworn/affirmed, testified as follows:

(Notice of Deposition and Subpoena premarked
Williams Exhibit No. 1.)

EXAMINATION

BY MR. SHERR:

Q Could you please state your full name for
the record?

A Terry James Williams.

Q Mr. Williams, my name is Tony Sherr. We
just met, we spoke before. I represent the Defendants,
other than Mr. Newton, in a lawsuit filed by David B.
Corneal and Sandra Y. Corneal, which is currently
pending in the United States District Court for the
Middle District of Pennsylvania.

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1 We're here today to take your deposition.
 2 You're familiar with depositions?
 3 A Yes.
 4 Q The only thing I would just like to stress
 5 is that if you don't understand my question, please ask
 6 me to clarify it, and that if you don't hear it, please
 7 ask me to repeat it. If you answer the question, we're
 8 going to assume that you both heard and understood the
 9 question.
 10 I've placed in front of you what I've had
 11 marked as Williams Exhibit No. 1, which, for the
 12 record, I'll state is a Notice of Deposition and a
 13 Subpoena. Are you here today pursuant to the
 14 deposition notice and subpoena?
 15 A Well, to be candid, I don't know that I've
 16 ever received these. I'm responding to Judge Rambo's
 17 order and I think a telephone call from your office
 18 telling me when you wanted to do the deposition. We
 19 received the original subpoena that was served, these
 20 were not, but...
 21 Q Okay. The third page, the addendum to
 22 subpoena, have you seen that before?
 23 A I don't believe I have.
 24 Q Have you seen Judge Rambo's order in
 25 conjunction with your deposition today?

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1 Q Did you review any documents in preparation
 2 for today's deposition?
 3 A Probably when I got the first subpoena, I
 4 went through the file — no, wrong. When I got Judge
 5 Rambo's order, I pulled the file and removed my notes
 6 and things; but did I review for today, no.
 7 Q Did you discuss, other than with
 8 Mr. Corneal, today's deposition with anybody?
 9 A Other than counsel.
 10 Q When did you discuss today's deposition with
 11 counsel?
 12 A I think that's privileged.
 13 Q When you discussed it with her?
 14 A Yeah, I think.
 15 Q And by counsel, you mean Bridget Montgomery?
 16 A Yes.
 17 Q Is she representing you here today?
 18 A Yes.
 19 (Mr. Corneal entered the room.)
 20 MR. SHERR: Let the record reflect that the
 21 Plaintiff, David Corneal, just entered the room.
 22 BY MR. SHERR:
 23 Q What's your business address?
 24 A 720 South Atherton Street, State College.
 25 Q And you're a member of a firm there?

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1 A Oh, yes, I've seen Judge Rambo's order.
 2 Q And Judge Rambo's order referenced documents
 3 that you were to produce?
 4 A Yes.
 5 Q I've been handed a number of documents by
 6 Ms. Montgomery this morning. Where were these
 7 documents from, where were these documents taken from?
 8 A They're from my file.
 9 Q Other than documents in your file, did you
 10 search anywhere else for documents?
 11 A No.
 12 Q Do you have any other documents relative to
 13 the request of Mr. Corneal's property other than what's
 14 contained in your file?
 15 A As to Judge Rambo's order, no.
 16 Q There are other documents, but you believe
 17 they haven't gone to third parties, is that --
 18 A Oh, that's correct. I mean, I would have my
 19 -- my file notes are not in the group that you have in
 20 front of you.
 21 Q But you don't believe that there are any
 22 other documents other than what's been produced that
 23 concerns Mr. Corneal's property in Jackson Township
 24 which have been sent to third parties?
 25 A No, they would all be in that file.

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1 A Yes.
 2 Q What's the name of the firm?
 3 A Miller, Kistler, Campbell, Miller, Williams
 4 & Benson.
 5 Q How long have you been practicing law?
 6 A Twenty-eight years.
 7 Q And do you have a particular specialty?
 8 A Not as that term — not as you
 9 professionally understand that term like patent law or
 10 anything like that, no. It's a general practice firm.
 11 I spend most of my time concentrating in municipal
 12 work, commercial litigation, business-related
 13 transaction law.
 14 Q What do you mean by municipal work?
 15 A Well, I serve as a solicitor for a number of
 16 municipalities and I represent a number of developer
 17 clients, as well as provide zoning litigation
 18 assistance to other attorneys.
 19 Q When did you first become involved with
 20 Mr. Corneal's property in Jackson Township?
 21 A I don't know that I can give you a specific
 22 date. Probably it would have been in November before
 23 the first conference at the Huntington County
 24 Courthouse.
 25 Q Was it your understanding that an action had

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1 been filed in Huntingdon County against Mr. Corneal
2 prior to you becoming involved?

3 A I didn't know that. Mr. Newton had
4 indicated that they had filed some sort of cease and
5 desist action. In other words, I did not have
6 pleadings, any of that sort before that meeting.

7 Q So your first contact with anybody other
8 than Mr. Corneal with respect to his property in
9 Jackson Township was a phone call to Mr. Newton?

10 A That's correct.

11 Q Did you initiate that phone call?

12 A I don't recall. I have a feeling I must
13 have, otherwise Larry would not have known of my
14 involvement, so I must have. Whether I called him or
15 he responded to a phone message from me, I don't know.

16 Q And this phone call took place sometime
17 before the first conference in November?

18 A Yes.

19 Q What was the nature of that phone call?

20 A We're going to be in front of the judge at
21 such and such a time.

22 Q Was there any discussion about the case
23 itself?

24 A Only from Larry's perspective about what
25 action he was trying to take, construction activities

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1 A That was my understanding both from — well,
2 certainly from Mr. Newton. I had not actually seen the
3 property myself.

4 Q Other than this discussion with Mr. Newton,
5 did you have any discussions with any third parties
6 other than — and by third parties, I mean other than
7 Mr. and Mrs. Corneal — prior to a hearing and/or
8 meeting at the Huntingdon County Courthouse?

9 MS. MONTGOMERY: Objection. That's been
10 asked and objected to by the deponent himself.

11 MR. SHERR: No, I asked him before the phone
12 call, now I'm asking after the phone call.

13 A I would give the same response. I think
14 that's privileged communication.

15 BY MR. SHERR:

16 Q Did you go to the property prior to the
17 meeting at the Huntingdon County Courthouse in
18 November?

19 A No.

20 Q What was your understanding of the nature of
21 the action filed against Mr. Corneal?

22 A To be honest, I had no understanding because
23 I hadn't seen the pleadings. Mr. Newton advised me
24 that they had filed an action to obtain a cease and
25 desist order.

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1 were ongoing without benefit of appropriate permits.

2 I think Larry mentioned that there was a
3 civil rights action that had been filed. I think I
4 told Larry that my involvement was strictly with the
5 building permitting process, that I had nothing to do
6 and would have nothing to do with the civil rights
7 action.

8 Q Had you been out to the property, the
9 Corneal's property in Jackson Township prior to that
10 phone call?

11 A No.

12 Q Prior to the phone call, had you discussed
13 the Corneal property in Jackson Township with anybody
14 other than Mr. and Mrs. Corneal?

15 A I regard that as a privileged response.
16 What I did in terms of investigation, I think is not
17 appropriate.

18 Q Well, my question is, just so we're clear on
19 the record, did you have discussions prior to the phone
20 call with Mr. Newton concerning Mr. Corneal's property
21 with anybody other than David and Sandra Corneal?

22 A I'm declining to answer that. I think
23 that's part of my work product.

24 Q At the time that you had the phone call with
25 Mr. Newton, had construction commenced on the property?

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1 Q Did you see the pleadings prior to the
2 conference at the courthouse?

3 A No.

4 Q Do you know what date you met at the
5 courthouse in November?

6 A I'm sorry, I don't. That would be in the
7 material that you have there in Judge Kurtz' orders.

8 MR. SHERR: Let's have this marked as
9 Williams No. 2, please.

10 (Court Order marked Williams Exhibit No. 2.)

11 BY MR. SHERR:

12 Q I'm going to show you what has been marked
13 as Williams Exhibit No. 2, which is a four-page
14 document consisting of an order by Stewart Kurtz, as
15 well as a motion for preliminary injunction and ask you
16 to review that.

17 A Okay.

18 Q Is that the order that you were referring
19 to?

20 A Yes. That means the meeting would have
21 occurred November 14, 2000.

22 Q Just for a second, if you could just get
23 that back in front of you. Looking at the second page,
24 have you seen that motion for preliminary injunction
25 before today?

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1 A Yes.

2 Q And it's your testimony, though, that you

3 didn't see it prior to going to the courthouse?

4 A No.

5 Q Who was present when you went to the

6 courthouse?

7 A Larry Newton.

8 Q Was it you and Larry Newton?

9 A Yes, we met in the hallway.

10 Q Was anybody else present?

11 A Not in that initial conversation, no.

12 Q Was anybody else at the courthouse for this

13 matter that you were aware of?

14 A Not at my initial meeting with Larry, Now,

15 they were all there apparently, but not with my

16 conference with Larry.

17 Q And you say the conference with Larry took

18 place in a hallway?

19 A Uh-huh, outside the main courtroom in

20 Huntington County.

21 Q And who initiated this meeting?

22 A Gosh, I don't know how to answer that. I

23 mean, both of us were there to talk about the Corneal

24 matter. I don't know who initiated it in that sense.

25 Q Can you tell me what the substance of the

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1 conversation you had with Mr. Newton was?

2 A Well, I'm sure other than the usual

3 civilities, I'm sure we talked about what Judge Kurtz

4 wanted to do that day.

5 I think we indicated that -- I think I

6 indicated that my purpose in being there was to find

7 out what it was the township was with trying to do to

8 try to get the building permit, sewage permit, driveway

9 permit, although I -- yes, I did know about the

10 driveway permit -- to get those matters taken care of.

11 And Larry made some comment about the

12 existence of this 1983 action, and I told him again I

13 have nothing to do with that, didn't want to have

14 anything to do with it, that I was there purely to try

15 to solve what he had filed, which I hadn't seen yet, in

16 Huntington County.

17 I'm sure I told him at that meeting that I

18 would try to do whatever I could to get that aspect of

19 it resolved, that I was concerned that David was in the

20 process of building without the benefit of those

21 permits and that I wanted to get that corrected. I

22 wanted to find out what was wrong and why on heaven's

23 name the township hadn't issued building permits.

24 Q And did you find out at that meeting?

25 A No, not at that -- no, not at that initial

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1 meeting, no, nor the subsequent conference that carried

2 over from that. I think -- I don't remember who went

3 in to talk to the judge's clerk or his secretary,

4 probably both of us stepped in the door, I think we

5 indicated to the secretary that we wanted to confer a

6 little bit.

7 Larry ushered me into the law library, I was

8 surprised when I got in the law library that all of the

9 board of supervisors were there, the secretary,

10 Ms. Wirth, SEO Parks, the building permit officer,

11 whose name I don't recall.

12 Q Van Dommelen?

13 A I just don't remember his name, but the

14 building permit officer was there, I was very surprised

15 that they were all sitting in a row.

16 Q And why did that surprise you?

17 A Well, I hadn't anticipated that they were

18 going to have that type of full-blown meeting. I

19 thought the purpose was to confer with Larry Newton and

20 with the judge.

21 Q Did you confer with the judge that day?

22 A We certainly didn't -- or I certainly didn't

23 confer with the judge in the sense of having a

24 conference with the judge about the case.

25 I have a feeling we probably talked to him

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1 in the hallway, but that may have been more good

2 morning, Judge, how are you, sort of thing. I don't

3 remember anything about the conversation with the

4 judge.

5 Q The meeting that you had in the library,

6 what took place at that meeting?

7 A Well, the township was telling me about what

8 they felt was wrong with what David had done. They

9 provided an indication that construction was ongoing,

10 that there were no building permits, that there were no

11 septic permits, that there was no driveway permit and

12 that they wanted to stop him and they wanted it stopped

13 now.

14 I'm sure there was more general information

15 offered, but they had drawings, they permitted me to

16 talk to the SEO, to the building permit officer, to the

17 road master about what the situation was.

18 And actually, Mr. Newton, who obviously was

19 present, allowed me to ask questions of them, what do

20 we need to do to solve this, what's wrong with that,

21 that kind of exchange back and forth.

22 Q You had a discussion there with the SEO?

23 A The SEO was there, yes.

24 Q And you had a discussion with him?

25 A Yes, in the sense of asking him a question,

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1 what needs to be done to get the sewer permits, an
2 explanation.

3 Q And what do you recall him telling you
4 needed to be done?

5 A I think his comment at that meeting, and I'm
6 sorry, Counsel, I don't have a definitive recollection,
7 but I think what he told me was that the test pits were
8 acceptable, that the modules had been filed and were in
9 appropriate form, but that the drawing which had been
10 attached to it was not because it showed a subdivision.

11 Q And did he indicate to you what the problem
12 with the drawing showing a subdivision was?

13 A No, I think -- no, he didn't tell me why he
14 thought that was inappropriate, no.

15 Q Did you ask him any questions about what he
16 told you?

17 A No. I'm certain I asked him what else do
18 you think we -- what else do we need to do to get this
19 clarified, and from that, I don't think the SEO
20 responded; someone did, I don't recall, it may have
21 been Ms. Wirth, but I don't recall, someone responded
22 that the drawings needed to be modified to eliminate
23 references to the subdivision.

24 There was also an issue about one of the
25 test pit numbers was inaccurate in the narrative, which

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1 deponent.

2 MS. MONTGOMERY: I think this is an unusual
3 deposition and I think that he's entitled to consult
4 with his counsel.

5 MR. SHERR: If he was being deposed, he
6 wouldn't be allowed to consult with his counsel, so the
7 fact that his counsel is being deposed, he's not
8 allowed to consult with his counsel, either.

9 MS. MONTGOMERY: Well, actually, we haven't
10 done the depositions in this case that way, Tony. I've
11 allowed you to consult with your clients when you've
12 asked me to.

13 MR. SHERR: You certainly have not. And, in
14 fact, you gave an instruction at each deposition that
15 they were not entitled to consult with their attorney
16 during the deposition.

17 MS. MONTGOMERY: Well, Tony, we can --

18 MR. SHERR: Unless you're changing, you
19 know, what you state there at the beginning of each
20 deposition.

21 MS. MONTGOMERY: Hold on one second. I'm
22 going to consult with my witness.

23 MR. SHERR: Well, that's inappropriate, as
24 well.

25 MS. MONTGOMERY: Well, I'm going to consult

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1 is the detailed attachment to the plan, in other words,
2 not the plan itself, but the detail that's attached to
3 it.

4 Q Did you make any comments concerning the
5 propriety of what they were telling you at that
6 meeting?

7 A No.

8 Q Did the SEO, at that meeting, ask you for
9 permission to go onto the property to see if the test
10 sites had been disturbed?

11 A No.

12 Q Did he ask you subsequently at another
13 meeting?

14 A He's never asked me could he go on the
15 property to see if the sites had been disturbed.

16 Q Did he ask you permission to go onto the
17 site?

18 A Oh, yes.

19 Q Was that at the November meeting?

20 A No, that would have been months later.

21 MR. CORNEAL: Can I have an interruption for
22 a second so I can consult with my counsel, with Terry
23 Williams?

24 MR. SHERR: I think that's inappropriate at
25 a deposition for you to be consulting with the

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1 with him.

2 MR. SHERR: Well, we'll let the record
3 reflect that you're consulting with the witness,
4 inappropriately so.

5 (Discussion held off the record between
6 Ms. Montgomery and the witness.)

7 MS. MONTGOMERY: For the record, you know,
8 since you seem to want to put this on the record, Tony,
9 we are concerned that since it is his counsel being
10 deposed and he has some concern, that he is entitled to
11 talk to his counsel on this unusual situation.

12 MR. SHERR: Well, I don't think the
13 situation is very unusual at all, and I don't think
14 it's appropriate for you to consult with him. You
15 know, I'm not going to physically stop him from
16 consulting with him, so, you know, do what you feel you
17 need to do.

18 MS. MONTGOMERY: Go ahead, and I will
19 listen.

20 (Discussion held off the record.)

21 BY MR. SHERR:

22 Q Would you like to change or modify any of
23 your responses as a result of the conference that you
24 just had with Ms. Montgomery and Mr. Corneal?

25 A No.

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1 Q Okay. You said that you had asked some
2 questions to the SEO about what needed to be done and
3 you believe that Ms. Wirth responded?

4 A My recollection is that Ms. Wirth is the one
5 who pointed out the discrepancy in the soil perc
6 number. I'm not entirely certain of that, but I think
7 she did.

8 Q Other than the sewer modules, was there
9 anything else that the township or that the individuals
10 present at that meeting indicated to you needed to be
11 fixed or completed to have Mr. Corneal in compliance?

12 A Yes, there was discussion with the road
13 master concerning the driveway permit, there was
14 discussion that they really didn't have a driveway
15 permit ordinance in effect, but I agreed that if that's
16 what needed to be done to resolve that issue, we would
17 go ahead and apply for one.

18 I think the building permit officer -- I'm
19 sure I asked the same question to the building officer,
20 and I think he said, no, there's no reason why from a
21 building permit standpoint they can't be issued.

22 Q So just in summary fashion, as a result of
23 this meeting, what did you learn that the township
24 wanted Mr. Corneal to do to come into compliance?

25 A Well, I had a laundry list of things that

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1 cease and desist order and certainly there was a great
2 deal of discussion at that meeting that if they
3 succeeded in getting a cease and desist order in
4 November, there was going to be additional damages on
5 that site.

6 Q What do you mean by that, additional damages
7 on the site?

8 A Well, once you've started construction,
9 stopping during winter in central Pennsylvania is
10 disastrous.

11 Q So there would be damages from a physical
12 point of view of the site itself?

13 A Absolutely. I'm sure there are other
14 damages, but in terms of the structure, that's not the
15 best thing for a building. The building officer, as I
16 recall, agreed with me about that. He seemed like a
17 very nice man.

18 Q Other than learning what the township wanted
19 to have, did anything else take place at this meeting?

20 A Well, I'm sure there was a commitment on my
21 part to proceed to make whatever corrections they felt
22 they wanted and to work with them to try to bring David
23 -- to get David the permits to do what they wanted to
24 get the permits issued, and Mr. Newton agreed that they
25 would hold any further action under this filing in

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1 they wanted accomplished, principally being that he
2 obtain a septic permit, building permit and driveway
3 access permit, that the principal holdup, I guess, was
4 the modification or correction of the plan that was
5 attached to the sewer module and that was important
6 because that plan, as attached to the module, showed a
7 subdivision and the application was not for a
8 subdivision at this point, it was to obtain a building
9 permit.

10 Q So did you indicate to the people present at
11 that time that Mr. Corneal was not attempting at this
12 time or at the time that you had the meeting to
13 subdivide the property?

14 A No, what I indicated to them was that my
15 purpose in being there was to get the appropriate
16 permits and if that meant that the subdivision was for
17 the time being put on hold, that's what we would do,
18 but that my purpose was to get the permits.

19 Well, and obviously, to allow him to
20 continue to build, I mean, there was some discussion
21 about that, that if they were successful -- remember
22 now, they had not served anybody with this paper, with
23 what you've put in front of me, this motion, we hadn't
24 seen this, I hadn't seen it, but it had been
25 characterized to me by Mr. Newton that they wanted a

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1 advance.

2 And I think an agreement was reached at that
3 meeting that I would accept service of the documents so
4 that they didn't have to expend any further money
5 trying to serve the motion. I don't recall anything
6 else.

7 Q Did you or Mr. Newton have a discussion with
8 the judge after this meeting to let the judge know what
9 was going on?

10 A I don't think so, we were into the noon
11 hour, I don't believe so. Whether Mr. Newton did, I
12 don't know, of course, but I don't recall that I saw
13 the judge again.

14 Q Were you aware at the time that you met
15 whether or not Mr. Corneal had applied for a building
16 permit?

17 A Well, I think what I was aware of is
18 probably privileged.

19 Q After the meeting in November, did you meet
20 with anybody other than Mr. or Mrs. Corneal for the
21 purpose of complying with what the township wanted
22 Mr. Corneal to do?

23 MS. MONTGOMERY: Objection. What Attorney
24 Williams' purpose was is certainly a privileged, if not
25 a work product matter.

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1 A I would agree. To me, that's privileged,
2 what I did.
3 BY MR. SHERR:
4 Q Did you meet -- I'll just say it like this
5 and noting that objection, after that November meeting,
6 did you meet with anybody other than Mr. or Mrs.
7 Corneal with respect to the property before your next
8 meeting with the township?
9 A Once again, I think that's privileged, I
10 think that's the same question.
11 Q Well, all I'm asking you -- just so we're
12 clear -- all I'm asking you is whether you met with
13 anybody, other than the Corneals?
14 A Other than the Corneals before I met with
15 the township again, yeah, I think that's privileged,
16 that's my work product, that's what I do for a living.
17 Q But this is a meeting -- well, you may be
18 asserting your work product, and I'm not asking you
19 what happened at the meeting or anything of that
20 nature, I'm asking you whether you met with somebody
21 other than Mr. or Mrs. Corneal?
22 A But the fact that there was a meeting, I
23 think is work product. I think that gets into the
24 disclosure and I think that's clearly privileged.
25 Q All right. Well, we'll find that out. Did

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1 you speak with anybody other than Mr. and Mrs. Corneal
2 concerning -- and township officials concerning the
3 property prior to your next meeting with the township?
4 MS. MONTGOMERY: Objection. It's been
5 asked, objected to, answered.
6 MR. SHERR: Well, I asked for meetings and
7 now I'm asking for whether or not he spoke with
8 anybody.
9 A Oh, then I misunderstood your prior
10 question. Let's try to short-circuit that. I feel
11 that what I did in terms of talking with people,
12 meeting with people, research or whatever, I think
13 that's all privileged material, it's a part of my job
14 in representing a client.
15 BY MR. SHERR:
16 Q After this meeting in November, did you have
17 an opportunity to go to the property in Jackson
18 Township?
19 A At some point, I went to the property, yes.
20 Q When was that?
21 A I'm sorry, sir, I don't recall. I don't
22 know when I actually went there, other than to tell you
23 it was cold and there was snow on the ground.
24 MR. SHERR: I would like this marked as
25 Williams No. 3, please.

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1 (Letter marked Williams Exhibit No. 3.)
2 BY MR. SHERR:
3 Q I'm going to show you a letter from you to
4 Jackson Township Board of Supervisors dated November
5 10, 2000, which has been marked as Williams No. 3 and
6 ask you to review that.
7 A Yes.
8 Q Now, you wrote this letter prior to the
9 meeting that we were just discussing, correct?
10 A Apparently. I don't have an independent
11 recollection of that, but I must have.
12 Q Do you have any reason to doubt the date
13 that appears on that letter?
14 A No, I have no reason to doubt the date.
15 Q Okay. Did you have a discussion concerning
16 Williams No. 3 with anybody from the township?
17 A No, I don't recall any discussions about the
18 building permit appeal.
19 Q Did you discuss that at the meeting at the
20 courthouse?
21 A Not to my knowledge. I don't recall that.
22 There were a lot of discussions, somebody may have
23 mentioned it, but I don't remember that.
24 Q Was it your understanding that the hearing
25 that you requested in Williams No. 3 had been subsumed

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1 in what you discussed at the courthouse on November 19?
2 A No, that was not my understanding.
3 Q And it's also your testimony that you did
4 not bring up the fact that you had asked for a hearing
5 on an appeal from a denial of a building permit?
6 A No, I don't recall talking about that. The
7 discussion centered on their request for injunctive
8 relief.
9 Q And the discussion also centered on, at
10 least at some points, about building permits?
11 A Absolutely. Building permits were the
12 principal focus of the meeting.
13 Q All right. So you discussed with the
14 township at the meeting at the courthouse with the
15 township officials and employees the deficiencies they
16 found in the building permit application by
17 Mr. Corneal?
18 A To my knowledge, there were no deficiencies
19 in the building permit application. The building
20 officer, when I asked him that question, my
21 recollection is he said no, nothing needs to be done to
22 those.
23 The problem is in the septic -- or the land
24 development plan and the driveway permit and that the
25 building -- well, I don't remember what the building

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1 officer said about it. I think his comment was I can't
2 issue a building permit until the septic permit is
3 resolved.

4 Q You think he said that at the meeting in
5 November?

6 A I'm certain it wasn't Mr. Newton. I think
7 it was the building permit officer.

8 Q Did you say anything in response to that
9 statement?

10 A I don't recall a response.

11 Q So you may have responded and you just don't
12 recall what it was?

13 A Yeah, I just don't recall.

14 Q Now, you indicated earlier that it was your
15 intent to comply with what the township was asking with
16 respect to the property?

17 MS. MONTGOMERY: Objection. That's not what
18 he testified to.

19 BY MR. SHERR:

20 Q Do you recall testifying to that effect?

21 A I've lost the focus of the question. Sorry.

22 Q Okay.

23 A First of all, let me be clear, my intent, I
24 think is privileged. I think what you're referring to,
25 you asked me a question about what was said, and what I

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1 there was one other supervisor present was at the
2 driveway throat where it intersects the township road.

3 And there was one onsite meeting -- pardon
4 me, I stand corrected -- two onsite meetings where the
5 SEO was present, one with just the SEO, the other is a
6 much later meeting with representatives of DEP and the
7 SEO. I think those are all the meetings.

8 Now, the exact sequence of those, I'm not
9 sure I can reproduce for you. I do know the driveway
10 was first because we dealt with that issue first.

11 Q What was the issue with the driveway that
12 was being dealt with?

13 A Well, the township at the first meeting
14 contended that he needed a driveway permit. I
15 politely, I wouldn't want to say argued, but politely
16 pointed out that they didn't have the driveway permit
17 ordinance enacted when the driveway throat was
18 constructed, but we would file an application for a
19 permit.

20 There was discussion at that meeting with --
21 this is the first meeting now -- with the road master
22 that he was not happy about the contour of how that
23 driveway throat was constructed, so that the meeting on
24 site, site referring, again, to the intersection
25 between the driveway and the road, was to look at that

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1 indicated was that I told them that I would help
2 Mr. Comeal come into compliance and do whatever they
3 wanted us to do to get the building permits, that I did
4 say.

5 Q Okay. Did you give an indication at any
6 time after the meeting in November at the courthouse
7 that Mr. Comeal still desired a hearing with respect
8 to the denial of his building permit?

9 A No, I don't recall any discussion about the
10 building permit appeal hearing.

11 Q What's the next meeting that you recall
12 having with the township or township officials
13 concerning the property?

14 A Here I may have my sequence off. I'm
15 certain there were phone calls with Solicitor Newton,
16 I'm certain there were one or two phone calls with
17 Ms. Wirth, I'm certain there were phone calls with the
18 road master regarding the driveway permit.

19 I suspect you have in front of you Judge
20 Kurtz' order which would tell me the date of the next
21 meeting at the courthouse. I think the next meeting at
22 the courthouse was the only other meeting that we had.

23 Now, there was a site visitation with the
24 road master at the highway, not by said site, but let
25 me be precise, the meeting with the road master and

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1 basically to say what do you want us to do.

2 Q And what did they indicate?

3 A Well, he indicated he wanted a
4 reconstruction of the driveway throat, obviously he
5 wanted a permit application, he wanted a reconstruction
6 of the driveway throat and that ultimately, he wanted
7 stabilization of where the driveway intersects the
8 highway so that -- well, I don't know that he gave me
9 his reasons for that.

10 The reason for the reconfiguration he gave,
11 which was to facilitate water drainage so that it
12 didn't drain out onto the road surface, but went into
13 the drainage culverts -- they're actually not culverts,
14 that implies some construction, they're swales on
15 either side of their township road.

16 So we talked about methods of
17 reconfiguration construction, we agreed that we would
18 pick an appointed day when the weather permitted
19 because it was very cold then to come back and redo the
20 driveway throat.

21 MR. SHERR: Let the record reflect that
22 Ms. Montgomery is speaking to the witness.

23 (Discussion held off the record between
24 Ms. Montgomery and the witness.)

25 BY MR. SHERR:

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1 Q Would you like to change or modify any of
2 your previous responses as a result of what
3 Ms. Montgomery just told you?

4 A No.

5 Q So you agreed to comply with what the road
6 master was asking with respect to the intersection of
7 the driveway and the road?

8 A Yes.

9 Q And how about with respect to the
10 application for a driveway permit?

11 A Well, I pointed out again to him that he
12 didn't have a driveway ordinance that was in effect at
13 the time of this construction, but if that would help
14 get the building permit issue resolved, I would have
15 David apply for a permit.

16 Q So to the point when this meeting took place
17 on the road, no driveway permit had been applied for?

18 A I can't answer that, Tony. I don't know
19 when that application was filed. It may or may not
20 have been; I don't know.

21 Q How about the sewer modules, were they
22 amended in accordance with the discussion you had in
23 November at the courthouse at the time that you had
24 this meeting out at the roadway?

25 A I'm sorry, sequentially, I don't know. It

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1 was continuing.

2 And I bluntly indicated to him the fact that
3 the permits hadn't been issued was, in my view, not
4 Mr. Comeal's situation, it was because of the actions
5 of the township, but that we would continue to do
6 everything we could to correct that aspect of it.

7 Q Did you tell him what actions of the
8 township prevented the permits from being issued?

9 A No, I don't think we ever went into those
10 kinds of details. We're not talking about lengthy
11 conversations.

12 Q Did you indicate to him that the township
13 was doing something to prevent permits from being
14 issued?

15 A Prevent, no, I can't use that word,
16 "prevent". I'm sure I said to him on a number of
17 occasions, where in your ordinance scheme are you
18 getting this, why are you doing it -- not why are you,
19 the solicitor isn't doing it -- why is the township
20 doing it this way.

21 Q Do you recall any specific examples of
22 asking him why are you doing this, why is the township
23 doing it this way?

24 A Sure, why are they requiring a driveway
25 permit when they didn't have a driveway ordinance, why

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1 was an ongoing process on all those fronts and when
2 something was done in relation to another, I can't
3 answer; I don't know.

4 Q You indicated that you had a couple
5 conversations with Mr. Newton --

6 A Yes.

7 Q -- by telephone?

8 A Yes.

9 Q And I understand we don't necessarily know
10 when the sequence of those conversations were, but what
11 was the substance of those conversations?

12 A Well, I think -- well, that's too general of
13 a question. It's not that I'm not trying to respond to
14 that, I don't know, the discussions were around the
15 tenor of I can't get application formats from the
16 township, will you send them to me. Yes, I'll send
17 them to you.

18 Have we done everything on what we filed, in
19 other words, when I would send something into the
20 township, I would call him and say, is there anything
21 else you need to do here, they were along those lines.

22 Mr. Newton would tell me about his
23 frustration that these permits hadn't been issued and
24 that they were getting pressure from other citizens in
25 the township that this was going on and construction

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1 did they go to this land development plan, why, for
2 example, when we filed the one set, did they come back
3 and ask me for drawings in a different scale, a scale
4 that, to my knowledge, nobody else uses because it's so
5 ludicrous in terms of sizing that required us to have
6 new prints drawn, those kinds of questions.

7 And quite frankly, they were rhetorical
8 questions, I don't think they were ever designed for
9 Larry to answer.

10 Q Did Larry give you any answers to those
11 questions?

12 A No, not to my knowledge. Larry always
13 expressed the hope that we could get the building
14 permit worked out.

15 Q And did you give him the indication that you
16 had that same hope?

17 A That I would hope that we could get the
18 building permit, septic permit and driveway permit
19 worked out, yes.

20 Q You indicated you had phone conversations
21 with Ms. Wirth?

22 A Yes, they were very brief, they were about
23 where can I deliver these things, in other words, how
24 do I get to your secretarial office to deliver them.

25 I think I -- at one point there close to tax

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1 season, there was one conversation where we hadn't
2 gotten something that we needed, I don't remember what;
3 I'm sorry, I can't recall what it was, probably an
4 application of some sort, and she said, well, she was
5 very busy, because she's a public accountant, and I
6 commiserated with her about the frustrations of early
7 April for people in that business, but we eventually
8 got that from her, but there was nothing in
9 conversations with Ms. Wirth about the substance of the
10 matter.

11 Q How about the road master, you said you had
12 conversations with him?

13 A Yes, they were about, once again, the
14 driveway, the necessity of the permit, the
15 configuration of the permit, and then after the work
16 was done, he called me to talk about the fact that they
17 were happy with the configuration, but that they wanted
18 it stabilized with 2RC stone.

19 Q Was that done?

20 A Yes, I believe it was.

21 Q Has the driveway permit been issued?

22 A A driveway permit was issued at some point.
23 I think that -- yes, the short answer, yes.

24 Q Any other conversations you remember having
25 with the road master, telephone conversations?

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1 A No, not to my recollection. There may have
2 been some brief conversations about what day are we
3 going to do these things, but that's all.

4 Q Now, you indicated that you had two meetings
5 at this site, one just with the SEO --

6 A Yes.

7 Q -- and one with others. Let's just talk
8 about the first meeting.

9 A Okay.

10 Q How did that meeting come about?

11 A I think Mr. Parks initiated the meeting, I
12 think he indicated to me he wanted the meeting because
13 the new applications had been filed and he wanted to
14 make a site visit to see what the conditions were
15 because construction activities had taken place and he
16 wanted to -- he wanted to look at it again.

17 Either in that conversation or a
18 conversation the next day, which we're in the process
19 of working out the scheduling, so there may have been a
20 second conversation, I can't remember that, but anyway,
21 he made a comment to me that he was concerned that the
22 driveways were located within ten feet of the septic
23 pit, which is, if you're going to use that soil test,
24 you're going to use that as the disposal area, that's
25 contra to DEP regulations.

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1 Q Did you say anything in response to that
2 indication by Mr. Parks?

3 A I probably said, oh, really.

4 Q Was anything else discussed initially about
5 that?

6 A No. The purpose -- but the purpose of the
7 meeting was to look at that and to look at the
8 condition on site.

9 Q When you say look at that, what do you mean?

10 A The location of the driveways in
11 relationship to the septic pit.

12 Q And this was for the structure that was
13 being constructed on the property?

14 A Sure. Yes.

15 Q And did you go with Mr. Parks to the site to
16 look at that situation?

17 A I didn't go with him, but I met him there,
18 yes.

19 Q Was anybody else present at that meeting?

20 A I'm certain David was there, there were
21 workmen obviously, but I think the only people
22 participating in the meeting were Barry and I and David
23 was there.

24 Q What happened at that meeting on the site?

25 A Suddenly, Mr. Parks never discussed the

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1 driveways, but he observed that a truck had backed over
2 one of the septic pits and he immediately said to me,
3 well, that's no longer acceptable, we can't do that, we
4 can't use that.

5 Q What did you say in response to that?

6 A Probably something like, oh, really. I'm
7 sure that's not a direct quote. Probably I see or
8 something of that sort.

9 Q Did you give any indication to him that you
10 felt contrary?

11 A I'm sure I probably did say to him that that
12 is a matter for a soil scientist, that while there may
13 have to be surface repair, that I felt it could still
14 be used. I think I probably had that discussion with
15 him. Then we looked at -- well, go ahead; I'm sorry.

16 Q What did you look at next?

17 A We looked at the alternate sites because
18 there was more than one approved site.

19 Q You looked at alternate --

20 A Disposal sites.

21 Q -- approved disposal sites?

22 A Uh-huh.

23 Q Did you give any indication to Mr. Parks
24 that other sites would be able to be used with the
25 structure that was being constructed at that time?

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1 A I didn't do that. I think that was general
2 knowledge. That's why they did all the testing. I
3 think everybody is aware there were multiple sites on
4 that property.

5 Q Did you have the understanding that they
6 tested multiple sites because at the time there were
7 plans for a subdivision?

8 A No, I did not have that understanding. It's
9 prudent when you're doing this type of work to do
10 multiple sites. I suppose -- well, I guess what my
11 impression is is privileged, but it's common practice
12 when you're doing a development like this out in the
13 woods, and by development, I mean building a house and
14 a garage and the art studio, that you would do multiple
15 sites so you had alternatives as you were in the
16 process of construction.

17 Q Did either you or Mr. Corneal or any of the
18 workmen say that we would use an alternate site for the
19 septic for the structure?

20 A The workmen have no involvement in this.
21 Mr. Corneal, I don't believe, other than pleasantries,
22 talked at all, he listened. We discussed what
23 alternate sites would be useable to service the
24 structures.

25 Q Did you ever give him any indication that an

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1 but you approved those sites.

2 I asked Mr. Parks for his soil logs, those
3 are the data sheets from the testing, he did not have
4 them for those downhill sites, he had them for the one
5 that the truck backed over, he had one for a site that
6 is some extensive distance away from the construction,
7 but he did not have the one for the downhill site that
8 would have been appropriate to use as an alternate
9 system.

10 Q Did you thereafter discuss this matter with
11 a soil scientist?

12 A Privileged.

13 Q Did you have any discussions with
14 Mr. Archmody, A-R-C-H-M-O-D-Y?

15 A That name is unknown to me, so no. Is that
16 a person? I mean, it's a person --

17 Q Yes, it's a person.

18 A But I mean, who is that person?

19 Q Well --

20 A Names are not in my lexicon. I don't
21 recognize the name.

22 Q You don't recall having a meeting on the
23 site with Mr. Archmody from either DEP or --

24 A Oh, there was a meeting with DEP officials,
25 absolutely. That occurred later.

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1 alternate site would be used for the septic for the
2 structure that was being built?

3 A No, because I felt that the one that the
4 truck had backed over was still serviceable, that there
5 was no need for another one. The point of that
6 discussion is the module, is the planning module that
7 says are there allowable and acceptable sites to permit
8 the construction of an onsite septic system, that's all
9 that's in the module.

10 The design of the system is the part of the
11 permitting process where you come in with a design for
12 the system, here's what we propose to build and the
13 permit, the septic permit is issued. The module
14 predates the septic permit, the module is what is
15 necessary for the issuance of building permits, et
16 cetera.

17 Design of the system is a postconstruction
18 matter, in other words, you can build and not have a
19 septic permit. So the point of the discussion with
20 Mr. Parks is there are multiple sites that are
21 available here, where's the module.

22 Q And what was his response?

23 A Well, Mr. Parks looked at sites on the lower
24 side and said, well, those aren't acceptable. And I do
25 believe David did at that point in a cry of pain say,

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1 Q Was he present at that meeting?

2 A He may have been. There were two DEP
3 officials. One is the -- well, I'm going to get his
4 title wrong. He's the soil -- no, he's not the soil
5 sanitarian, he's the director of the local DEP office
6 and there was an assistant. I'm sorry, I don't
7 remember either of their names.

8 Q Okay.

9 A So to summarize, to my knowledge, I've never
10 talked to -- I'm sorry, the name again?

11 Q Archmody.

12 A Archmody, I'm sorry, I don't recognize that
13 name.

14 Q Okay. Did you subsequently indicate to
15 Mr. Parks that the site that he indicated that could
16 not be used because it had been disturbed was a correct
17 interpretation?

18 A Probably at the second meeting, there was
19 discussion that the SEO could raise the concern issue
20 about the site having been driven over. I don't know
21 that we ever talked about whether it was an appropriate
22 decision or not, but yes, that he had a right to raise
23 that concern.

24 At the first meeting, that wasn't an issue.
25 The issue at the first meeting was, well, that that can

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1 be repaired, which is my understanding of the soil
2 characteristics.

3 Q Well, did you send or have prepared and at
4 some point give to the township officials a report from
5 a soil scientist?

6 A I did not do that personally. A soil
7 scientist was consulted and a report prepared and
8 submitted, yes, to DEP, I think, yes.

9 Q And was that report discussed at the site
10 when you met with the DEP officials?

11 A Oh, I doubt if it was discussed. I think it
12 was clear that it had been done. I think the DEP
13 people had looked at it; but was it discussed, no.

14 Q How did this meeting with the DEP officials
15 come about?

16 A Well, Mr. Parks was not going to proceed
17 further without something, and I'm not sure what
18 something is. There was another change in circumstance
19 on the property not temporally related to that first
20 meeting, but before the second meeting, and as a result
21 of that, an engineer was retained for purposes of
22 assisting with solving the septic problems.

23 Q What was the change in circumstance?

24 A A well was drilled.

25 Q And who indicated that that was a change in

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1 representatives from the Altoona DEP were present at
2 that meeting?

3 A Well, precisely, no, but the Altoona office
4 is the reviewing agency of the module, and ultimately,
5 the reviewing agency for whatever design is put forth;
6 In other words, they would be, if you will, the people
7 to whom Barry Parks would send his data.

8 I'm certain that there were discussions
9 between Larry Newton and I by phone that DEP had to be
10 involved in this, that we needed to get this resolved,
11 who said what, I don't know, but I'm sure that the
12 township was in favor of having DEP involved.

13 We wanted that done. Obviously, we were not
14 going to get anywhere with this permit with Mr. Parks
15 and we had to go to higher authority.

16 Q What was Mr. Parks' position at this time
17 prior to this meeting with DEP?

18 A Oh, okay. His position at the first meeting
19 was there were not acceptable sites that would allow
20 the module to proceed.

21 Q What happened at the second meeting where
22 the DEP officials were present?

23 A From a septic standpoint, I think there was
24 general concurrence by all concerned that what had been
25 proposed was appropriate, that the testing had been

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1 circumstances that affected this issue?

2 A I know just enough to be dangerous. The
3 location of the well would render the site that was
4 backed over by the truck unusable because the well was
5 too close to it to allow it to be used for the disposal
6 of the waste water. It makes it a nonissue, if you
7 will.

8 Q Right. And you said an engineer was
9 retained. An engineer was retained on behalf of
10 Mr. Corneal?

11 A That's correct.

12 Q And somehow through this change in
13 circumstance and the engineer being retained, another
14 meeting was held at the property?

15 A That's correct.

16 Q Who was present at this meeting?

17 A Oh, boy, all right, the workmen were there,
18 although not participating in the meeting, Barry Parks,
19 two representatives of the Altoona office of DEP, I was
20 there, Larry Newton was there, Tom Bowes was there,
21 B-O-W-E-S, and -- that's terrible, I don't recall
22 whether David was there or not; I assume he was, but I
23 don't remember, he may not have been, I don't remember
24 him participating in any way, so he may not have been.

25 Q Now, do you know how it was that the

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1 done properly, that there was no reason why the module
2 shouldn't be approved and that subject to getting the
3 actual design -- once again, remember, those are
4 separate processes -- but subject to getting detailed
5 design, that the site could be served by what had been
6 proposed.

7 Now, this involved a new pit, which didn't
8 exist at the first meeting.

9 Q Well, that was my question, what was being
10 proposed that was acceptable?

11 A What was being proposed was a drip
12 irrigation system.

13 Q When was that proposed to the township?

14 A Well, it had to be after the first meeting
15 with Parks and certainly before the second meeting with
16 DEP and Mr. Parks.

17 Q And do you recall either of the DEP
18 representatives saying anything at this meeting?

19 A Oh, sure.

20 Q What do you recall them saying?

21 A Well, both people from DEP got in the pits
22 and looked at the testing and the soil characteristics,
23 you're looking at the stratification of the soil, they
24 looked at -- commented on that, commented on the
25 characteristics of that typical soil from the mapping,

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1 commented on the positioning of where these test pits
2 were and the proposed disposal sites were, and the
3 bottom line, at the end of the meeting or near the end
4 of the meeting commented they were satisfied.

5 Also, they promised, because I was anxious
6 to get the building permit, they promised that as soon
7 as they had the paperwork from the township, they would
8 review it.

9 Q Has that been done?

10 A As I sit here this morning, not to my
11 knowledge. When you say done, has DEP reviewed the
12 paperwork, that's the question I'm answering?

13 Q Yes.

14 A No, to my knowledge, that has not been done.

15 Q Has the paperwork been sent to DEP?

16 A My understanding is that the paperwork went
17 to DEP recently from the township, meaning within a
18 matter of days ago.

19 Q Do you have an understanding as to why there
20 was a delay between when you had that meeting with the
21 DEP officials and when they were sent to DEP?

22 A There would have been further — there were,
23 not would have been, there were further modifications
24 to the module now that everyone seemed to be on line
25 with the new test pit and the drip irrigation system,

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1 A I don't see correspondence from Mr. Newton,
2 so maybe what he did was call me that he wanted a
3 status conference. In any event, somehow I became
4 aware that Larry had asked the Judge for a status
5 conference and that a time had been scheduled and he
6 gave me the date and time.

7 Q Did you have a conversation with Mr. Newton
8 as to why he believed the status conference was
9 necessary?

10 A No, I don't believe so. I don't think Larry
11 and I were ever able to chat about that, he just simply
12 told me that's what he was doing.

13 Q Okay. Now, who attended this meeting at the
14 courthouse?

15 A Well, that was done in the courtroom, Judge
16 Kurtz was present, the court reporter, tip staff,
17 Mr. Newton. There were people from the township, I'm
18 reasonably certain Ms. Wirth was there, I don't know,
19 there were other people there from the township, but
20 exactly which ones, I don't recall.

21 Q Were the proceedings transcribed?

22 A You know, I don't know. A reporter was
23 there, but whether a — I'm sure there's no
24 transcription, but whether notes of the testimony were
25 taken, I don't know.

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1 although the drip irrigation system has less to do with
2 the module than it does with the ultimate design, but
3 the location of the pit is important because that's in
4 the module and that had to be changed on the mapping.

5 I imagine there's a change in the narrative
6 statement, too, that's attached to it that makes
7 reference to drip.

8 Q Now, this second meeting, we'll call it the
9 second meeting, with DEP officials, this took place
10 after another meeting at the courthouse, correct?

11 A Oh, yes, the meeting with the DEP officials
12 would be in this temporal sequence to the last meeting.
13 By now, it's warm, the leaves are out.

14 Q I want to talk about the second meeting that
15 occurred at the courthouse. Do you recall when that
16 was?

17 A Specifically, no. I'm sure there's a Judge
18 Kurtz scheduling order.

19 Q Yeah, I don't know if I separated one out.

20 A Well, I think I got a letter from Mr. Newton
21 telling me that he had asked for, I think what he
22 described as a status conference.

23 Q Just let the record reflect that the witness
24 is looking through his correspondence file which has
25 been produced.

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1 Q Was this in court, I mean, was court
2 actually open?

3 A Yes, court was in session, the Judge was on
4 the bench, yes.

5 Q And what took place at this court session?

6 A Basically, Judge Kurtz wanted to know, well,
7 where are we, gentlemen, and Mr. Newton presented what
8 he — where we felt we are, and I responded as to where
9 I felt we were.

10 Q And what was your response as to where you
11 felt you were?

12 A Well, we had completed obtaining the
13 driveway permit at that point, that I felt we had
14 submitted everything that the township had asked us to
15 do, so it would seem to me that the court appearance
16 occurred before — I may be wrong, but it seems to me
17 it occurred before the meeting with Parks on site, I'm
18 not certain about that.

19 And I think the Judge's — distilling an
20 awful lot — I think the Judge said, well, do you
21 gentlemen think you're going to be able to get this
22 worked out. I think Mr. Newton indicated that he felt
23 we had made an honorable effort to do that and that we
24 could get it worked out. The Judge thanked us and we
25 went on our way.

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1 Q About how long did this proceeding last?

2 A I don't know, 20 minutes, 15 minutes maybe.

3 Q Did you have any other discussions with

4 Mr. Newton either before or after this proceeding at

5 the courthouse?

6 A Oh, I'm sure I spoke to Larry before we went

7 into the courtroom, I don't have much of a recollection

8 of what went on. And I'm sure there were postmeeting

9 conversations because I remember asking them, now, is

10 there anything else that we haven't done that you need

11 to have done, and my recollection of coming away from

12 that court proceeding is that no, everything has been

13 submitted.

14 Q Have you ever had a discussion with anybody

15 other than discussions with Mr. Corneal about a privy

16 permit?

17 A Other than Mr. Corneal, no.

18 Q Did you ever have discussions --

19 A No, I don't think so.

20 MR. CORNEAL: Can we take a break for a few

21 minutes?

22 MS. MONTGOMERY: We can. Sure.

23 MR. SHERR: Sure, you can take a break.

24 MR. CORNEAL: I want to talk to

25 Mr. Williams.

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1 already there, they had them for months.

2 Q Well, all those applications that you're now

3 referring to were all there prior to the meeting at the

4 courthouse in November, correct?

5 A Yes, I believe so. They had them for some

6 time before that.

7 Q Understood. Just so we're clear, the

8 attached -- what you attached to Williams No. 4 was the

9 first time since the meeting at the courthouse in

10 November that anything was submitted to the township;

11 is that correct?

12 A Certainly from my office, yes, I don't know

13 about completely. I would assume that's the case

14 because they had everything and had it for some time.

15 Well, understand, they haven't issued a

16 building permit, why haven't they issued a building

17 permit, the response that I get in November is because

18 there's no septic permit, why haven't you issued a

19 septic permit, the modules are in compliance, well,

20 because it's a land development plan and it shows a

21 subdivision line.

22 They had everything, they did not have a

23 driveway permit application, but they had everything

24 else and they had it for months.

25 Q Correct me if I'm wrong, but your testimony

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1 MR. SHERR: You want to talk to Mr. Williams

2 again?

3 MR. CORNEAL: Uh-huh.

4 MR. SHERR: Knock yourself out.

5 (Discussion held off the record.)

6 (Letter marked Williams Exhibit No. 4.)

7 MR. SHERR: Can you just read me the last

8 question and answer, please?

9 (The reporter read back the referred-to

10 portion of the record.)

11 BY MR. SHERR:

12 Q I'm going to show you what has been marked

13 as Williams No. 4, which is a letter from you to Ann

14 Wirth dated February 5, 2001. Is that, in fact, a

15 letter that you wrote to Ann Wirth on that date?

16 A Yeah, it's written to the township, directed

17 to Ann Wirth as secretary.

18 Q Is that the first time that you submitted

19 applications on behalf of Mr. Corneal?

20 A That sounds right, yes. The driveway permit

21 application I think would have been the first one, but

22 remember, there already were applications on file for

23 all of this.

24 The building permit applications were

25 already there, the sewage permit applications were

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1 is that at the meeting in November, you agreed to

2 modify the modules to comply with what the township had

3 been asking you to do, correct?

4 A We agreed to modify the plan, not the

5 module, the plan, to take off the subdivision line that

6 was shown and to clarify because I didn't know at the

7 meeting what the story was, but to clarify the pit

8 number.

9 Q Did you agree to modify anything else at the

10 meeting that you can recall?

11 A Well, there was no change in the module, the

12 sites were the same, the soil tests were the same,

13 everything was there --

14 Q Was it your understanding that there had

15 been no changes in the sewage module from those

16 originally submitted to the township?

17 A To what, to the date of the November

18 meeting?

19 Q Yes.

20 A Yeah, I think they were the same.

21 Q Okay.

22 A It was incomprehensible to me how they had

23 not issued these permits.

24 Q Did you tell them that?

25 A No.

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1 Q In fact, you told them --

2 A I'm sure I said to Larry Newton, I fail to
3 understand how you can refuse to issue permits, but at
4 the meeting, no, the meeting was courteous, the meeting
5 was to find out, all right, what do we need to do now
6 that this has gone on this long, now that you've
7 managed to get us into this position, how do we get out
8 of it.

9 Q Did you say that, those words?

10 A I don't know about those words, but I'm sure
11 I said -- I have a feeling I probably did say in all my
12 years, I've never seen anything like this, somehow we
13 have to find an answer to this, there is no reason -- I
14 do remember this because there was a discussion about
15 it -- there is no reason on that site, given the size
16 of the site, the location of the soil testing, why you
17 can't build this.

18 In other words, this isn't like somebody
19 wanting to build a shopping center in an R-1 zone, this
20 isn't like somebody wanting to put in a community
21 sewage system right next door to the sewage treatment
22 plant, there was no legal reason that I could define as
23 to why these permits hadn't been issued, but yet, my
24 client is building without the benefit of a permit and
25 I want to correct that.

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1 ordinance that required a different map scale.

2 And I said fine, we'll have the surveyor
3 prepare according to scale, nobody uses that scale, so
4 I did have a second delivery to Ann Wirth's home with
5 that different scaled map.

6 Oh, and there's one other thing that they
7 wanted. They had received a topo map, but they wanted
8 the topo map combined with either the building plan
9 drawings or the survey drawings, so we did that, too,
10 and that would have been delivered.

11 Oh, and they raised an issue -- the other
12 thing that -- well, that's not something I delivered,
13 but the letter talks about the stream crossing problem.

14 Q What was the problem with the stream
15 crossing?

16 A Well, the township raised -- sometime early
17 on in the process, raised the issue that David was
18 going to construct a stream crossing and that they were
19 concerned about that.

20 I had never heard anything about this, so I
21 inquired and found out that there was no stream
22 crossing, that there had been discussions, but that it
23 wasn't a part of the proposal, that that's not how
24 access was being gained to the property and I confirmed
25 with Ms. Wirth that that was not an issue.

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1 So yes, I'm sure there was discussion, I
2 don't understand how you can do this, but you tell me
3 what you want, what do you want from this man now, and
4 when I get that, I will use my best efforts to bring
5 him into -- to get him to do that so that we can submit
6 that and get these permits done so he can go live there
7 and we can be done with this, I'm sure there were
8 discussions of that type.

9 Q Other than the submissions which are
10 indicated in Williams No. 4, do you recall submitting
11 any other applications or materials to the township?

12 A I probably did not directly. After it
13 became clear that the module wasn't going to go
14 anywhere, that's after the first meeting with Parks on
15 site that he's begun to raise issues that haven't been
16 raised before, but now we're hearing about them, that's
17 when the modification was in the module, and that was
18 submitted, but it did not come from my office.

19 If seems to me there was one other thing,
20 though, that we had to deliver to Ann Wirth's home.
21 Oh, of course, after all this stuff gets in, then I get
22 a call, and I don't know whether it was from Newton --
23 I'm sorry, I don't remember which of the township
24 officials called me to tell me that the scale of the
25 map was wrong and pointing out the section in the

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1 Q Did you come to learn that stream crossing
2 was in the original proposal?

3 A I don't know, I never saw the original
4 proposal.

5 Q Did you learn at any point other than from
6 Mr. Corneal that the stream crossing was abandoned at
7 some point during this process because he had purchased
8 other property?

9 A I don't know about all those nexuses. I was
10 aware that the stream crossing was not being used to do
11 this development. The access to this property is on
12 the top of the hill, not down the sides.

13 The issue of the stream crossing is
14 irrelevant to the issuance of these permits, which is
15 what I was pointing out to Ms. Wirth.

16 MR. SHERR: I don't have anything further.
17 Thank you.

18 MS. MONIGOMERY: I'm thinking. Give me a
19 moment. I just have one question for you.

20

EXAMINATION

21

22 BY MS. MONIGOMERY:

23 Q Mr. Williams, you testified to a variety of
24 activities and things that were undertaken with respect
25

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1 to Mr. Corneal's property since the filing of the preliminary injunction.

3 My question to you is, is it your understanding that those activities were required by law?

6 A All of my involvement is after the filing for a temporary restraining order, although, when I got to the meeting, I didn't know that that's what they had requested, but that would be logical.

10 What we did through my efforts is not something that is required by law. The township had every piece of information that it needed to issue appropriate permits, but hadn't done so.

14 My client is in the process of constructing buildings without a permit and my goal was to find out what the township wanted us to do to get those permits issued.

18 As I pointed out earlier, they didn't have a driveway ordinance when it was built, but we agreed to submit for a driveway permit, they had acceptable soil modules that they hadn't transmitted that should have been submitted, and the building permit could have been issued legally based on that information. They chose not to do that and they chose to take the avenue of enforcement action.

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1 In a perfect world where construction hasn't started, you would probably file an action in mandamus, but it's too late for that when I'm involved at the stage where they've already asked for a restraining order to prevent construction.

6 So no, what we did was designed, as I indicated at that meeting, to get the permits issued so that the township would stop the enforcement action so that David could finish building and David could move into the home in a timely fashion.

11 And as we sit here today, I still only have the septic permit, I do not have a sewer permit, I do not have a building permit and my client is still at risk in terms of the state action that's filed under this restraining order.

16 We are doing, within reason, or maybe even without a reason, but certainly we're doing everything that we can on his behalf to try to get those permits to be issued.

20 MS. MONTGOMERY: I don't have any other questions. Thank you.

22 MR. SHERR: I have a couple others. Now that you've expressed an opinion, I'm going to have to ask you some other opinions.

25

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EXAMINATION

1

2

3 BY MR. SHERR:

4 Q First of all, I thought it was your testimony that you were unaware of what had been filed with the township prior to your involvement?

7 A Other than we knew that — other than I was told by Larry that they had taken some action to enforce it, to stop construction, I did not see it and I didn't know the form of the action.

11 Q But I'm speaking with respect to any applications filed by Mr. Corneal, I thought your testimony was you were unaware what he had filed originally and what the nature of all those applications were?

16 A I had not examined those applications. What they were, sure, I'm sure I was aware of what they were, but no, I never looked at them.

19 Q So you know that originally, he filed an application for a subdivision?

21 A Yes, I think — well, I don't know about the word "originally", I know that there was an application involving a subdivision because I saw the map that had a property line in it.

25 Q Are you aware at some point, he changed that

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1 subdivision plan into something different?

2 A No, I'm not aware of that. The lot line was deleted at my meeting in order to facilitate getting the building permit. Whether there is an interim plan, I have no knowledge of that.

6 Q And with respect to the sewer module, do you know whether or not his original submission of sewer modules was ever changed or modified up and to the point that you got involved?

10 A Boy, I do not have any knowledge that there was a second application set of modules prior to my involvement.

13 Q Now, in answering Ms. Montgomery's question, what do you base your answer on?

15 A Well, her question was, were we legally required to do this? The answer to that is simple, no.

17 Q What do you base that on?

18 A Well, I guess I base it on 28 years of doing municipal work.

20 Q Do you base it on anything else?

21 A Well, I suppose we could sit here and have an esoteric discussion of what the municipal law requires, but the baseline is, the sewage ordinance was not passed until after the driveway was constructed.

25 The building officer advised me that he

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1 thought the building applications were all in order,
2 and the sewer modules had adequate and acceptable soil
3 sites to permit the residential development, and I'm
4 using development now in the sense of construction, not
5 development in the sense of a subdivision, were on the
6 plan and had been approved, the soil testing had been
7 done.

8 Legally, I saw no reason why those permits
9 could not have been issued, but an enforcement action
10 is undertaken, which poses a great threat of financial
11 risk to my client and I have to try to help him out of
12 that, and the way you do it, I think, from, once again,
13 28 years of experience of dealing with governmental
14 bodies, with local government in particular, it isn't
15 to sit at a meeting and say you're wrong, it's to say
16 what do you want us to do, tell us what you want us to
17 do, and if it's reasonable and if it's something we can
18 do, we'll do it.

19 Q And what they told you to do in this
20 instance was reasonable and something that you could do
21 and you went ahead and tried to do it?

22 A I didn't know quite all the answers about
23 the sewer, but yeah, most of what -- I mean, filing a
24 permit for a driveway application, is that reasonable
25 where there's no statute that requires it, I don't

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1 Q Why do you believe that?

2 A Well, because everyone had signed onto that.

3 Q What do you mean everyone?

4 A Well, the SEO, the original -- I think she's
5 an engineer, she may not be an engineer, but the
6 original SEO person who did some of the work on it had
7 signed.

8 Q Any other evidence which led you to believe
9 that the application was filed?

10 A No, it was my understanding that those
11 applications had been filed. I have a feeling
12 Mr. Newton told me that, too, but when, I don't know
13 when that discussion was.

14 Q Are you aware of what Mr. Corneal originally
15 filed with the township?

16 A Originally?

17 Q The first thing he filed with the township.

18 A No.

19 Q And are you aware as to whether there were
20 any modifications with what was filed originally with
21 the township?

22 A Well, I think you need to help me here. Are
23 you talking about the septic permit now, are you
24 talking about the building permit?

25 Q I'm asking you what your understanding of

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1 know, is that reasonable, but it's a piece of paper.

2 Is it reasonable to go out and dig more test
3 pits, no, it's not reasonable, but is it something that
4 we can do to keep construction going, probably.

5 Q Well, in your 28 years of experience, have
6 you been in a situation where there was a building
7 erected before provisions for sewage were established?

8 A Yes, but never one where the applications
9 have been filed.

10 Q And you believe that applications had been
11 filed prior to him commencing construction?

12 A Yes.

13 Q How do you know that?

14 A I guess I don't have any -- in the sense
15 have I looked at the township records, no, that's just
16 my impression from looking at the dates.

17 Q And have you seen any evidence of filing of
18 any applications prior to commencing building?

19 A Oh, yeah, when we did the modifications, I
20 saw the original application.

21 Q You saw an application, okay, and did you
22 see -- did you see any evidence that that was actually
23 filed with the township?

24 A I did not make an examination of the
25 township records. I believe it was filed.

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1 what he filed is?

2 A Well, I think there have been field
3 modifications to the septic, which has been caused by
4 the various issues that were raised during this
5 process, but have I sat down and compared A to B, no, I
6 haven't.

7 Q Now, with respect to the septic itself and
8 digging extra test pits, I believe your testimony is
9 that additional test pits were required to be dug
10 because the original site had been, one, disturbed,
11 and, two, a well was dug near it?

12 A The test pit was dug because it was obvious
13 that the township was not going to accept the soil
14 testing that had previously passed and been submitted.

15 Now, once the issue was raised about backing
16 the truck over the one pit, then the location of the
17 well becomes irrelevant, it's another reason why you
18 can't use that pit.

19 At that point, you don't try to struggle
20 with the idea of do we change the soils, do we do the
21 modifications that are necessary, you go dig another
22 test pit because now maybe there's a better way to do
23 it.

24 There's expertise that you bring to bear at
25 that point, but the reason you're bringing that

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1 expertise to bear is because the permits haven't been
2 issued, the module hasn't been submitted to DEP.

3 In my opinion, if it had been, it would have
4 been approved and that the permit should have been
5 issued, but that's not the circumstance I'm in at the
6 time I'm involved.

7 It's sort of like the man who goes to a car
8 lot to buy a Buick and you're on the car lot and you
9 say, hey, there's a good price on a Cadillac, so you
10 suggest to the customer, I think you ought to drive the
11 Cadillac, that's the reason for the new septic pit,
12 there's a better way to do it, but better in this case
13 means better for Mr. Corneal, it has nothing to do with
14 the permitting.

15 Q Now, just to modify what you said again, you
16 were involved with this and we've already established
17 you were involved with this before you had knowledge of
18 this injunctive action, correct?

19 MS. MONTGOMERY: Objection. I don't think
20 that's what he testified to.

21 MR. SHERR: Well, he did. We'll get the
22 letter out where you ask for an appeal of the -- if I
23 can see the exhibits, just so we're clear.

24 A Yes.

25 BY MR. SHERR:

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1 A No, not at all, that would be fairly
2 typical. You have to protect his right because under
3 the local agency law, you only have 30 days.

4 Q You have to protect the right, but is
5 construction already commenced with protecting that
6 right?

7 A To me, that has no relationship. This is
8 about failure to issue a building permit, denial --

9 Q Well, is construction of the property -- is
10 it typical to have the building permit before you
11 build?

12 A Typical?

13 Q Yes.

14 A Well, sure. In a perfect world, that's the
15 way it's supposed to work.

16 Q Right. And is it also true that in a
17 perfect world, that if you believe you should have been
18 issued a building permit, instead of building, you
19 would file a mandamus action, as you stated?

20 A That would be one approach. You would
21 probably also file an appeal from their failure to do
22 so just to protect your rights under the local agency
23 law.

24 MR. SHERR: I have nothing further.

25 (The deposition concluded at 12:03 p.m.)

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1 Q Yes to my question that you were involved
2 prior to knowledge of the injunctive action?

3 A My first -- this letter of Exhibit 3 is
4 produced and probably went out of my office three days
5 before the hearing, but the filing was done in October,
6 the Judge signed the order scheduling the November
7 conference on October 19.

8 I think I was aware that some type of
9 enforcement action had been undertaken by Jackson
10 Township, that's the reason for my involvement. I
11 think I knew that when I wrote this, but I had not seen
12 this until I got to court on November 14.

13 Q Okay. So you were aware when you wrote
14 Williams 3 that some type of enforcement action was
15 undertaken by the township?

16 A I believe so. I believe so. What it was, I
17 don't know. I'm sure I suspected in my mind, because
18 that's how you would do it, you would ask for a
19 temporary restraining order.

20 Q And were you also aware that on November 10,
21 2000, that construction on a building had commenced?

22 A Oh, I'm sure I was, yes.

23 Q Is it an unusual circumstance to be
24 requesting a hearing on a denial of a building permit
25 where construction has already commenced?

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1 COUNTY OF UNION :
2 COMMONWEALTH OF PENNSYLVANIA: ss

3
4 I, NICOLE L. ZIMMERMAN, Reporter-Notary
5 Public, authorized to administer oaths within and for
6 the Commonwealth of Pennsylvania and take depositions
7 in the trial of causes, do hereby certify that the
8 foregoing is the testimony of TERRY WILLIAMS, ESQ.

9 I further certify that before the taking of
10 said deposition, the witness was duly sworn; that the
11 questions and answers were taken down stenographically
12 by the said NICOLE L. ZIMMERMAN a Reporter-Notary
13 Public, approved and agreed to, and afterwards reduced
14 to typewriting under the direction of the said
15 Reporter.

16 I further certify that the proceedings and
17 evidence are contained fully and accurately in the
18 notes taken by me on the within deposition, and that
19 this copy is a correct transcript of the same.

20 In testimony whereof, I have hereunto
21 subscribed my hand this 12th day of July, 2001.

22

23

24

25 My commission expires
on May 24, 2003

NICOLE L. ZIMMERMAN
Notary Public

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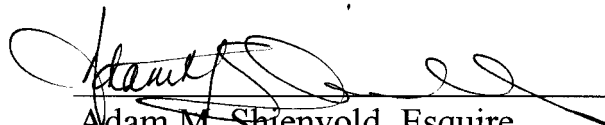
**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

| | | |
|--|---|---------------------|
| DAVID B. CORNEAL and SANDRA Y. CORNEAL, | : | NO. 1:CV-00-1192 |
| | : | |
| Plaintiffs | : | JURY TRIAL DEMANDED |
| | : | |
| v. | : | RAMBO, J. |
| | : | |
| JACKSON TOWNSHIP, Huntingdon County, Pennsylvania, <i>et al.</i> , | : | |
| | : | |
| Defendants | : | |
| | : | |

CERTIFICATION

I, Adam M. Shienvold, Esquire, am counsel for the Plaintiffs, David B. Corneal and Sandra Y. Corneal, and I hereby certify that the documents submitted in support of Plaintiffs' Motion for Summary Judgment are true and correct copies of documents that were produced and prepared in the course of discovery in the above-captioned proceeding. I understand that all statements contained herein are made subject to the penalties of 18 Pa. C.S. § 4904, relating to unsworn falsification to authorities.

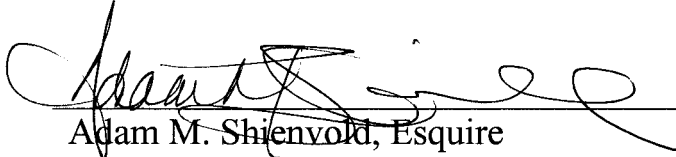
ECKERT SEAMANS CHERIN &
MELLOTT, LLC


Adam M. Shienvold, Esquire
Pa. I.D. No. 81941

CERTIFICATE OF SERVICE

I, Adam M. Shienvold, Esquire, hereby certify that I am this day serving a copy of the foregoing document via First Class U.S. Mail, which service satisfies the requirements of the Federal Rules of Civil Procedure and Middle District Local Rules of Court, addressed as follows:

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Date: June 24, 2002

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David B. and Sandra Y. Corneal